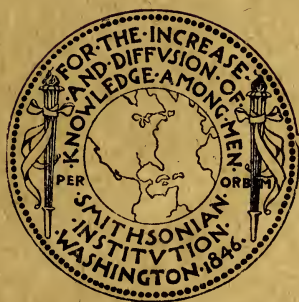


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SMITHSONIAN INSTITUTION

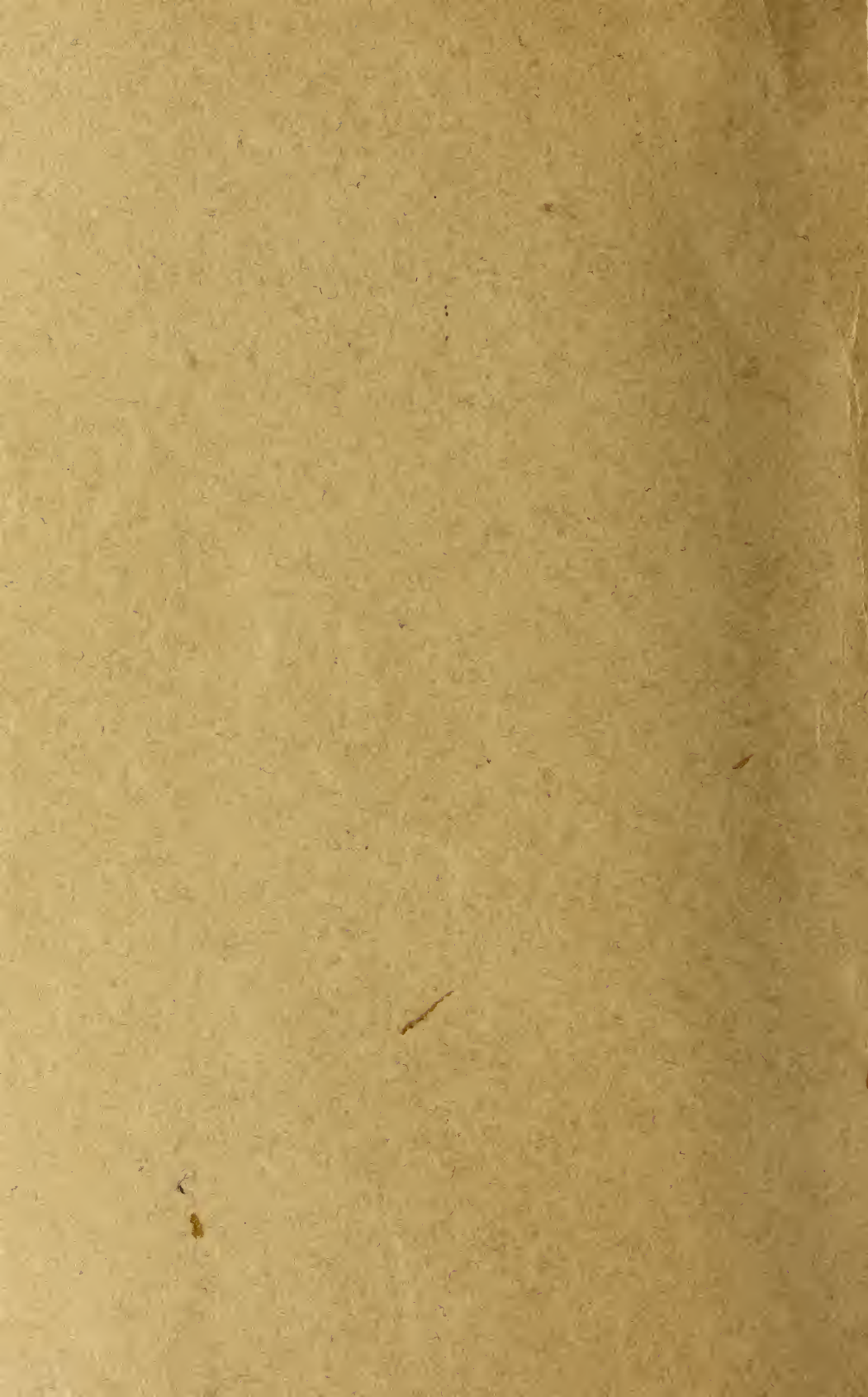
# MATERIAL PAPERS RELATING TO THE FREER GIFT AND BEQUEST



(PUBLICATION 2958)

CITY OF WASHINGTON  
PUBLISHED BY THE SMITHSONIAN INSTITUTION  
FEBRUARY 8, 1928

From Gallery of Art  
Washington, D. C.



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**The Lord Baltimore Press**  
BALTIMORE, MD., U. S. A.



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## INTRODUCTION

We stand at the fork of two ways. Our course depends greatly on the authoritative interpretation of Mr. Freer's directions regarding his Gallery and bequest. Owing to favorable events, the income of the Freer bequest has greatly increased, and is now approximately \$275,000, so that the importance of the policy to be chosen is great.

Shall the income be devoted chiefly to the collection of specimens of Chinese and nearby archeology and art, the purchase of particularly fine specimens of near-Eastern art, the study of the material as relating to Far Eastern Culture and appreciation of high ideals of beauty, the erection of larger galleries to contain the specimens, and the preparation and publication of monographs thereon?

Or shall a broad interpretation be given to the terms "civilization," "Far East," "high ideals of beauty," as contained in the language of the Freer will and its codicil? For instance, is the word "civilization" to be regarded as embracing all degrees of "being reclaimed from the rudeness of savage life, and advanced in arts and learning"? Is the income applicable to the study of all attributes of the civilized state, so far as associated with the civilization of the Far East? Should the term "Far East" include all territory between the 90th and 180th meridians of East Longitude, and between  $+90^{\circ}$  and  $-90^{\circ}$  in Latitude? May phenomena now existing in other localities, but traceable to the influence of the civilization of the Far East be studied with the income? Shall "the promotion of high ideals of beauty" be limited to the specific methods mentioned by the codicil of Mr. Freer's will, or may other methods conducive thereto be also employed?

These and other questions which may from time to time arise in the interpretation of Mr. Freer's Deed of Gift, his various letters pertaining thereto and the terms of his will are of such great importance that the Permanent Committee has requested the assembling of these papers and their printing in orderly form for the use of the Board of Regents of the Smithsonian Institution.

The papers are herewith presented.

C. G. ABBOT, *Secretary*.

January 12, 1928.





## MATERIAL PAPERS RELATING TO THE FREER GIFT AND BEQUEST

### THE ART COLLECTIONS OF CHARLES L. FREER

Under date of January 3, 1905, Mr. Charles L. Freer, of Detroit, Michigan, transmitted to the Institution an offer to bequeath or make present conveyance of title to his valuable private art collections to the Smithsonian Institution or the Government, under certain conditions, proposing at the same time to provide for the construction, after his death, of a building of appropriate design and proportion to receive the collections, provided that the Institution or the Government would undertake its maintenance. Consideration was given to this proposal by the Board of Regents at several meetings, and on January 24, 1906, the offer was accepted on terms slightly modified by Mr. Freer, as conveyed in a letter addressed to the President of the United States, as follows:

Washington, D. C., December 15, 1905.

To the President:

Permit me to repeat my offer to bequeath my art collections to the Smithsonian Institution or to the United States Government, and also the sum of \$500,000 in money for the purpose of constructing a suitable building in which to house them, upon the following terms and conditions:

First. The sum of \$500,000 shall be paid by my executors to the Regents of the Smithsonian Institution or the United States Government promptly after my decease, and shall be used forthwith for the construction of a fireproof building connected with the National Museum, the construction of which has been recently authorized, or reasonably near thereto.

Second. The interior of this building shall be arranged with special regard for the convenience of students and others desirous of an opportunity for uninterrupted study. A suitable space shall be provided in which the Peacock Room should be re-erected complete. The whole interior arrangement of the building shall be agreed upon between the Regents of the Smithsonian Institution and myself within a reasonable time after the acceptance of this offer.

Third. The collections, with such additions thereto as shall be made during my lifetime, shall be delivered by my executors to the Regents immediately after the building is constructed and ready to receive them.

Fourth. The collections and the buildings shall be cared for and maintained perpetually by the Smithsonian Institution or the United States Government at its own expense.

Fifth. No addition or deduction shall be made to the collections after my death, and nothing else shall ever be exhibited with them, or in the same building, nor shall the said collections, or any part thereof, be removed at any

time from the said building except when necessary for the purpose of making repairs or renovations in the building.

Sixth. No charge shall ever be made for admission to the building or for the privilege of examining or studying the collections.

Seventh. The collections and building shall always bear my name in some modest and appropriate form.

In lieu of the foregoing offer, I am willing, upon the conditions above expressed, to make a present conveyance of the title to said collections to the Institution or the Government, and a bequest of the sum of \$500,000 for the building, provided:

1. The collections shall remain in my possession during my life, and in the possession of my executors after my death until the completion of the building.

2. I shall have the right to make such additions to the collections as may seem to me advisable or necessary for the improvement of the collections, or any of them.

3. On or before April next I will file with the officials of the Smithsonian Institution or the United States Government a descriptive inventory of the objects belonging to the collections.

4. Both I and my executors shall be free from any liability on account of any loss in or danger that may accrue to the collections while in my or their charge, even though such loss or injury shall occur by reason of my or their negligence, or the negligence of my or their servants, agents or employees.

The exact form of the bequest or gift, and the details for carrying it into execution, are legal questions that can be agreed upon by counsel representing the Institution or the Government and myself.

I am, with great respect, very sincerely yours,

CHARLES L. FREER.

Following is the resolution of acceptance, adopted by the Board on January 24, 1906:

The Board of Regents, recognizing the great value to the people of the United States of the art collection so generously offered by Mr. Charles L. Freer, of Detroit, Michigan:

*Resolved*, That the Board of Regents of the Smithsonian Institution do hereby accept the tender of Mr. Freer to make present conveyance to the Institution of the title to his art collection, and to bequeath to the Institution the sum of \$500,000 for the construction of a fireproof building in which to house it, under the terms as stated in his communication to the President of the United States dated December 15, 1905.

#### DEED OF GIFT

The conveyance was finally executed on May 5, 1906, in the following terms:

Know all men by these presents that Charles L. Freer, of the city of Detroit, county of Wayne, and State of Michigan, party of the first part, for and in consideration of the sum of one dollar and of other valuable considerations to him in hand paid by the Smithsonian Institution, an establishment created by act of Congress, party of the second part, the receipt whereof is acknowledged,

has bargained and sold, and by these presents does grant and convey unto the said party of the second part, and unto its successors, the art objects belonging to said party of the first part and now in his possession at No. 33 Ferry avenue east, in the city of Detroit, Michigan, particularly enumerated in the printed inventory hereto attached and made a part hereof; to have and to hold the same unto the said party of the second part, and its successors forever.

The said party of the first part for himself, his heirs, executors and administrators, does covenant and agree to and with the said party of the second part, and its successors, to warrant and defend the sale hereby made of said property, goods and chattels unto the said party of the second part, and its successors, against all and every person or persons whatsoever. I

This transfer and sale is made by said party of the first part, and is accepted by said party of the second part, upon the following terms and conditions, which are hereby declared to be binding obligations upon the parties hereto:

1. Said first party shall bequeath to said party of the second part under the terms of his last will and testament the sum of five hundred thousand dollars, which shall be paid by the executors of said party of the first part to said party of the second part promptly after the death of said party of the first part. Said sum shall be used forthwith after the receipt thereof by said party of the second part exclusively in the construction and equipment of a fireproof building connected with the National Museum, or reasonably near thereto, upon a site to be furnished by said party of the second part, according to plans and specifications which shall be agreed upon as soon as may be after the date hereof between said party of the first part and the Regents of said Institution; provided that any portion of said sum that shall remain unexpended after a building planned to take said sum for its construction and equipment shall have been completed may be used by said Institution for purposes connected with said building and its collection. Said building shall be used exclusively for storing and exhibiting the objects covered by this instrument and such objects as may hereafter be transferred by said first party to said second party. In the event that plans and specifications are not agreed upon prior to the death of said first party, said building shall be constructed and equipped by said Institution with the sum so bequeathed with special regard for the convenience of students and others desirous of an opportunity for uninterrupted study of the objects embraced hereunder. A suitable space shall be provided in said building in which the Peacock Room mentioned in said inventory shall be re-erected complete.

2. Said first party may add other appropriate objects, to be selected by him, to those enumerated in said inventory, and such other objects when transferred to said second party shall be subject in all respect to the terms and conditions enumerated in this instrument.

3. The objects embraced in said inventory, with such additions thereto as shall be made by said first party during his lifetime and transferred to said second party, shall be delivered by the executors of said first party to said Institution in said building immediately after the building shall have been constructed and ready to receive them.

4. The said building, when constructed, and the objects when delivered, shall be cared for and maintained perpetually by said second party, or its successors, at its own expense.

5. After such delivery no addition shall be made to said objects, nor shall any deduction be made therefrom, and no other objects of any kind shall ever be exhibited in connection with said objects, or in the same building, nor shall the said objects, or any part thereof, be removed at any time from said building, except when necessary for the purpose of making repairs or renovations in the building.

6. No charge shall ever be made for admission to the building nor for the privilege of examining or studying the objects contained therein.

7. The collections and building shall always bear the name of said first party in some modest and appropriate form.

8. All objects covered by said inventory and by said subsequent transfers shall remain in the possession of said first party during his lifetime, and in the possession of his executors after his death until the said building is fully completed. Said first party shall have the right during his lifetime to loan any of said objects for exhibition purposes.

9. Said first party and his executors shall be free from any liability on account of any loss in or damage that may accrue to the whole or any of said objects before the delivery thereof to said second party, notwithstanding the fact that such loss or damage may accrue by reason of his or their negligence or the negligence of his or their servants, agents or employees.

It is the intention and meaning of the parties hereto that the title to the objects mentioned in the inventory hereto attached passes immediately to said second party, and that the title to all objects which may be added to those in said inventory mentioned, and which may be covered by subsequent transfers to said second party, shall pass immediately to said second party, upon the delivery to it of each instrument of subsequent transfer.

In witness whereof the said party of the first part has hereunto set his hand and seal, and said party of the second part has caused this instrument to be executed in duplicate by its Acting Secretary and its seal to be hereto affixed, this fifth day of May, 1906.

(Signed) CHARLES L. FREER, [SEAL.]  
SMITHSONIAN INSTITUTION,

(Signed) By RICHARD RATHBUN,  
Acting Secretary.

Signed, sealed and delivered in presence of—

(Signed) HERBERT E. BOYNTON. [SEAL.]

(Signed) FRANK W. HACKETT. [SEAL.]

The printed inventory which accompanied and was made a part of the above conveyance enumerates above 2,250 objects, which may be briefly summarized as follows:

By James McNeill Whistler, 119 paintings in oil, water color, and pastel; 100 drawings and sketches, 3 wood engravings, 600 etchings and dry points, 165 lithographs, and all the decorations of the famous Peacock Room. By the American artists, Dwight W. Tryon, Thomas W. Dewing, and Abbott H. Thayer, 60 paintings in oil, water color, and pastel. Of oriental paintings, 298 kakemono and makemono, 121 screens and 53 panels, by various masters of Japanese and Chinese



schools, from the tenth to the nineteenth century, including Ririomin, Sesshu, Sesson, Motonobu, Tanyu, Koyetsu, Sotatsu, Korin, Kenzan, Hoitsu, Okio, and Hokusai; besides 4 albums of Japanese art and 13 Tibetan paintings. Of oriental pottery, 953 pieces from Japan, China, Korea, Central Asia, Persia, and Arabia. There is also a small collection of ancient Chinese and Japanese bronzes and some lacquer work by Koyetsu, Korin, and Ritsuwo.

DECREE OF COURT, JULY, 1906

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA

D. K. ESTE FISHER, AND OTHERS, EXECUTORS AND	} Equity, No. 25,160. Doc.
Trustees under the Last Will and Testament of	
Harriet Lane Johnston, deceased,	
<i>v.</i>	
HARRIET LANE HOME FOR INVALID CHILDREN OF	}
Baltimore City, and others.	

This cause coming on for hearing in respect to the subject matters set forth in the Thirteenth Paragraph of the Bill of Complaint; the allegations of the said paragraph, the Answers thereto of the several Defendants, the provisions of the Last Will and Testament and of the several codicils thereto of the Testatrix, Harriet Lane Johnston, and the testimony taken on behalf of the United States of America in support of its answer to the allegations of the said thirteenth paragraph of the Bill of Complaint, having been by the Court, (after argument of counsel for the United States of America and for the Defendant the Harriet Lane Home for Invalid Children of Baltimore City, the residuary legatee and devisee named in the said Last Will and Testament of the said Testatrix) fully considered.

It is, therefore, on this eleventh day of July, in the year 1906, by the Supreme Court of the District of Columbia, sitting in Equity, and by the authority thereof, adjudged, ordered and decreed.

That there has been established by the United States of America in the City of Washington a National Art Gallery, within the scope and meaning of that part of the codicil bearing date April 21, 1902, made by the said Harriet Lane Johnston to her Last Will and Testament, in the proceedings in this case mentioned, wherein she gave and bequeathed the pictures, miniatures and other articles, to the Trustees of the Corcoran Gallery of Art, and in the event of the Government establishing in the City of Washington a National Art Gallery, then that the said pictures and other articles above mentioned should be delivered to the said National Art Gallery and become its property; and that the said National Art Gallery is the National Art Gallery established by the United States of America at, and in connection with, the Smithsonian Institution located in the District of Columbia and described in the Act of Congress entitled an Act to establish the "Smithsonian Institution" for the Increase and Diffusion of Knowledge among men, approved August 10, 1846, 9 Stat. L. 103, (Title LXXIII, Section 5579 R. S. U. S.) and the subsequent Acts of Congress amendatory thereof; and it is further adjudged, ordered and decreed, that the United States of America is entitled to demand and receive from the surviving Executors of



the said Harriet Lane Johnston, the Complainants named in the Bill of Complaint in this case, all of the above mentioned pictures, articles of sculpture, engravings, miniatures and other articles, the same to be and become a part of the said National Art Gallery so established by the United States of America at, and in connection with, the said Smithsonian Institution.

And whereas, the said Testatrix, Harriet Lane Johnston, in bequeathing the said pictures and other articles to the Trustees of the Corcoran Gallery of Art, in and by the codicil hereinbefore mentioned to her said Will, made it a condition of the said bequest that the said articles should be kept together in a room provided for the purpose, and to be designated as the "Harriet Lane Johnston Collection"; and whereas it is apparent that it was the design of the said Testatrix if the said pictures and other articles bequeathed in connection with the same should belong to, and become a part of the National Art Gallery established in the City of Washington by the United States of America, that the above mentioned provision for the keeping together in a room all of the said articles so bequeathed, and that the same should be designated as the "Harriet Lane Johnston Collection" (prescribed as the condition upon which the same should become the property of the Trustees of the Corcoran Gallery of Art) should be the condition upon which they should become part of the National Art Gallery established by the United States of America.

Now therefore, it is further adjudged, ordered and decreed, as a condition upon which the title of the United States of America shall be acquired in the said pictures and other articles hereinbefore mentioned, that the same shall all be kept, so as to form one distinct collection, in one hall or room in one of the buildings of the Smithsonian Institution, the several classes of the said articles being arranged and located in said hall or room according to the best judgment of the Secretary of the Smithsonian Institution; and that in an appropriate, prominent and permanent way, the said Collection shall be designated and declared to be the "Harriet Lane Johnston Collection."

And it is further adjudged, ordered and decreed, that the costs of the proceedings in this case in connection with this decree shall be paid by the complainants as Executors of Harriet Lane Johnston, deceased.

WENDELL P. STAFFORD, Justice.

## LAST WILL AND TESTAMENT

OF

CHARLES L. FREER

I, CHARLES L. FREER, of Detroit, Michigan, do make, publish and declare this my last Will and Testament:

FIRST: I revoke all wills heretofore made by me.

SECOND: I direct my Executors, hereinafter named, to pay all my debts and funeral expenses.

THIRD: I have heretofore made provision for my brother, WATSON M. FREER, and for my nephews and nieces ETHEL FREER, CHARLES W. FREER, ELLA FREER, CLARENCE FREER, WILLIAM FREER, GEORGE FREER, AUSTIN FREER, WATSON FREER and HAZEL FREER, the children of my deceased brothers, WILLIAM H. FREER, RICHARD G. FREER and GEORGE T. FREER, and have received from each of them releases from any and all claims which they may have as heirs or otherwise to any share of my estate.

FOURTH: I have cancelled and charged off of my books of account all indebtedness to me existing up to the date hereof on the part of EMMA F. FREER, WATSON M. FREER, WILLIAM H. FREER, GEORGE T. FREER, family of GEORGE T. FREER, MRS. GEORGE FREER, ELLA W. FREER, MRS. RICHARD G. FREER, and all other relatives, and I do hereby cancel and discharge all indebtedness to me of every kind and nature that may exist at the time of my death from any of the persons in this paragraph named, or any other of my relatives.

FIFTH: I give and bequeath to ADDIE FREER, widow of my deceased brother, RICHARD G. FREER, fifty thousand dollars (\$50,000), provided she survives me.

SIXTH: I give and bequeath to my cousin, MISS JENNIE DuBOIS, of Kingston, New York, ten thousand dollars (\$10,000), provided she survives me.

SEVENTH: I give and bequeath to my aunt, MRS. GEORGE TOWNSEND, of Kingston, New York, ten thousand dollars (\$10,000), provided she survives me.

EIGHTH: I give and bequeath to my second cousin, MRS. CHARLOTTE HOGAN, of Kingston, New York, ten thousand dollars (\$10,000), provided she survives me.

NINTH: While the provision made by me as aforesaid for my brother, WATSON M. FREER, is, I feel, sufficient for him and his family, his daughter, LOUISE FREER (who is not above mentioned by name) may possibly feel that she alone of my near relatives has been overlooked by me. I give and bequeath to my said niece, LOUISE FREER, the sum of twenty-five thousand dollars (\$25,000) provided she survives me.

TENTH: I give and bequeath to STEPHEN J. WARRING, my present caretaker, one hundred (100) shares of the capital stock of Parke, Davis & Company, a Michigan corporation, provided he is in my service at the time of my death, and I direct that my Executors, hereinafter named, shall continue to employ said WARRING in supervising my collections until they are finally deposited in the building in Washington now being erected for their future care by the Smithsonian Institution, and I further direct my said Executors to provide and pay for the casing, packing and transportation to Washington of all the collections, cases, racks and furniture to which said Institution is entitled, and to provide and pay for taking down the woodwork and decorations of the Peacock Room, and for casing, transporting and re-erecting them in said building, said Peacock Room being in my house at Detroit, Michigan.

ELEVENTH: I give and bequeath to GEORGE W. ALGER, my present Secretary, one hundred (100) shares of the capital stock of Parke, Davis & Company, a Michigan corporation, provided he is in my service at the time of my death, and I direct that my Executors, hereinafter named, shall continue to employ said ALGER in helping to care for my collections and books of account until the collections are finally deposited in the building in Washington, now being erected by the Smithsonian Institution.

TWELFTH: I give and bequeath to KATHARINE N. RHOADES, of New York City, one thousand (1,000) shares of the capital stock of Parke, Davis & Company, a Michigan corporation, and I direct that my Executors, hereinafter named, shall continue to employ MISS RHOADES in an advisory position until my collections shall have been deposited in the building in Washington, now being erected for their future care by the Smithsonian Institution.

MISS RHOADES, having long and earnestly collaborated with me in the work of acquisition, study and description, and being in sympathy with, and understanding fully the present practices of

caring for and exhibiting the numerous objects in the collection presented by me to the Smithsonian Institution, I request that the Regents of said Institution invite MISS RHOADES to consult with and aid the curator, especially in developing and broadening the educational work possible, and in the future care and exhibition of the collection. Her knowledge of the underlying ideals of the collection; her acquaintance with the many specimens involved, their history and relation to each other, make her continued association with the collection most desirable, and I hope that this request will insure her permanent collaboration.

THIRTEENTH: I give and bequeath to HARPER HOSPITAL, of Detroit, Michigan, for its general endowment fund, ten thousand dollars (\$10,000).

FOURTEENTH: I give and bequeath to THE GRACE HOSPITAL, of Detroit, Michigan, for its general endowment fund, ten thousand dollars (\$10,000).

FIFTEENTH: I give and bequeath to ST. MARY'S HOSPITAL, of Detroit, Michigan, for its general endowment fund, ten thousand dollars (\$10,000).

SIXTEENTH: I give and bequeath to the CHILDREN'S FREE HOSPITAL, of Detroit, Michigan, for its general endowment fund, ten thousand dollars (\$10,000).

SEVENTEENTH: I give and bequeath to the DETROIT MUSEUM OF ART the sum of five thousand dollars (\$5,000), to be expended by its Trustees in completing and improving, by purchase or exchange, the collection of etchings, water colors and drawings made by Charles Storm Van Gravesande, heretofore given by me to said Museum, and for remounting and framing the same, and for no other purpose. The collection of Gravesande's work is a notable one, and after said sum shall have been spent in its improvement, the Trustees of said Museum, I trust, will find it worthy of permanent preservation.

EIGHTEENTH: I have heretofore given, by deed of gift and by bills of sale, to the SMITHSONIAN INSTITUTION, an establishment created by Act of Congress, a collection of objects of art, and I have further given said SMITHSONIAN INSTITUTION one million dollars (\$1,000,000) to be used in the erection of a building to house the said collection, which building is now in process



of construction, and have further given said SMITHSONIAN INSTITUTION two thousand (2,000) shares of the capital stock of Parke, Davis & Company, a Michigan corporation, to be used, if necessary, for the completion of said building and the complete furnishing and equipment thereof. In addition to the gifts last above mentioned, I give and bequeath to said SMITHSONIAN INSTITUTION capital stock of said Parke, Davis & Company of the market value at the time of my death of two hundred thousand dollars (\$200,000). The cash dividends on said stock, or the income derived from the proceeds of the sale thereof, shall be used by the Regents of said Institution solely for the purpose of hiring a competent curator, whose first service shall be the faithful oversight, intelligent exhibition and careful protection of the collections transferred by me by deed of gift or bills of sale or bequeathed by this Will to said Institution.

NINETEENTH: I give and bequeath to said SMITHSONIAN INSTITUTION the sum of two hundred thousand dollars (\$200,000) in the capital stock of said Parke, Davis & Company, at the market value thereof at the time of my death, the cash dividends on said stock, or income derived from the proceeds thereof, to be used by the Regents of said Institution for the creation of ornamental gardens within the court and corridors of said building and on the grounds immediately surrounding it, and for the purchase of suitable American statuary, including permanent wall panels, for erection at appropriate places in said court and corridors; and I request the Regents of said Institution to consult fully with Mr. Charles A. Platt, the architect of the building now under erection, concerning the choice of materials to be used and the sculptors to be employed. The architectural features involved in this bequest I ask the said Regents to entrust to the aforesaid Charles A. Platt.

TWENTIETH: I give and bequeath to said SMITHSONIAN INSTITUTION capital stock of said Parke, Davis & Company of the market value at the time of my death of fifty thousand dollars (\$50,000). The cash dividends on said stock, or the income derived from the proceeds of the sale thereof, shall be used solely for the care and maintenance of the gardens and statuary provided for in the next preceding paragraph of this Will.

TWENTY-FIRST: I give and bequeath to said SMITHSONIAN INSTITUTION all art objects listed in an inventory entitled "An Appendix to an Inventory of the Collections of Charles L.



Freer presented to the Smithsonian Institution," and not transferred to said Institution by bill of sale prior to my death.

TWENTY-SECOND: I give and bequeath to said SMITHSONIAN INSTITUTION all books and manuscripts on art topics known and designated as "S. I. Art Library."

TWENTY-THIRD: I give and bequeath to said SMITHSONIAN INSTITUTION all the glass cases used for exhibition purposes, and the metal racks and cases in my present house used for storing paintings, Makemono, Kakemono, etchings, etc.

TWENTY-FOURTH: I give and bequeath to the Regents of the UNIVERSITY OF MICHIGAN capital stock of said Parke, Davis & Company of the market value at the time of my death of fifty thousand dollars (\$50,000). Said stock, or the proceeds derived from the sale thereof, shall be held in perpetuity by said Regents, and the cash dividends, or income therefrom, shall be used to add to the knowledge and appreciation of oriental art. Said income shall be used primarily in aid of research to be conducted by experts regarding the art objects embraced in the collection of oriental art transferred or bequeathed by me to the SMITHSONIAN INSTITUTION; for the publication of the results of such research, and for the preparation of text of descriptive scientific catalogues of said collections whenever the necessary information can be prepared.

TWENTY-FIFTH: I give and bequeath to my Executors, hereinafter named, all my household furniture, rugs and utensils, and collection of art objects classified as "rejected" or "reserved," and all my books and manuscripts not already distributed by me in my lifetime and not already covered by the provisions of this Will. It is my wish that some of these objects be distributed by my Executors to my brother, WATSON M. FREER, my sister-in-law, ANNA HECKER FREER, each of my nephews and nieces, FREDERICK W. MANN, FREDERICK S. CHURCH, THOMAS W. DEWING, DWIGHT W. TRYON, JOHN N. BAGLEY, MISS KATHARINE N. RHOADES, CLARENCE CARPENTER, HOWARD G. MEREDITH, and to certain other persons and institutions in which I am interested. FRANK J. HECKER, one of my executors, thoroughly understands my wishes in this regard, and I trust to my Executors to see that those wishes are properly carried out.

TWENTY-SIXTH: All of the bequests hereinbefore made in this will shall be paid or delivered to the beneficiaries named free from all inheritance taxes or other charges.

TWENTY-SEVENTH: The remainder of my estate, real and personal, wherever situated, I give, devise and bequeath to said SMITHSONIAN INSTITUTION. If any exigency shall arise making such use necessary, the income from said residue shall be used for the care, protection and maintenance of the building hereinbefore provided for, and of the said collections. If no such exigency shall arise, so much of the income from said residue shall be used for the encouragement of the study of the civilization of the far East as the Regents of said SMITHSONIAN INSTITUTION shall determine, and the remainder of the income from said residue shall be used, from time to time as opportunities offer, for the purchase by said Institution of works of painting, sculpture and pottery of high aesthetic quality, the work of American painters, sculptors and potters, which works immediately after purchase shall become the property of the United States National Gallery of Art, in perpetuity and for exhibition in its own galleries or for loan exhibition in such other galleries everywhere throughout the world as may seem safe and wise to the Regents of the Smithsonian Institution (U. S. National Gallery of Art), excepting that no paintings, works of sculpture or pottery purchased by said Institution with any part of said income shall be exhibited or kept permanently in the building mentioned in paragraph Eighteenth of this Will.

TWENTY-EIGHTH: I direct that my said Executors shall sell all real estate owned by me as soon after my death as possible without detriment to my estate.

TWENTY-NINTH: I hereby appoint as my Executors FRANK J. HECKER, of Detroit, Michigan, the DETROIT TRUST COMPANY, of Detroit, Michigan, and CHARLES D. WALCOTT, of Washington, D. C., and request the Judge of Probate not to require of them any bonds.

THIRTIETH: I do hereby give to my Executors full power and authority to sell and convey any of my real or personal property and to give proper deeds or other instruments of conveyance or transfer therefor, and to invest and reinvest the proceeds thereof as in their judgment may seem best.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 13th day of May, in the year of our Lord one thousand nine hundred and eighteen.

CHARLES L. FREER (Seal).

On this 13th day of May, in the year of our Lord one thousand nine hundred and eighteen, the said testator, CHARLES L. FREER, of Detroit, Michigan, signed the foregoing instrument in our sight and presence and declared the same to be his last will and testament ; and, at his request and in his sight and presence, and in the sight and presence of each other, we have hereunto set our names as subscribing witnesses.

HENRY E. BODMAN,  
of Detroit, Michigan.  
ALEXIS C. ANGELL,  
of Detroit, Michigan.

THE FIRST CODICIL  
—TO THE—  
LAST WILL AND TESTAMENT  
—OF—

CHARLES L. FREER

I, CHARLES L. FREER, of Detroit, Michigan, do make publish and declare this as the first codicil to my last will and testament which I executed on May 13th, 1918.

1. I revoke the bequests made in paragraphs 13th, 14th, 15th and 16th of my last will to various hospitals,—namely HARPER HOSPITAL, of Detroit, Michigan; THE GRACE HOSPITAL, of Detroit, Michigan; ST. MARY'S HOSPITAL, of Detroit, Michigan; the CHILDREN'S FREE HOSPITAL, of Detroit, Michigan.

2. I give and bequeath to the FAIRVIEW HOSPITAL, of Great Barrington, Massachusetts, the sum of twenty-five thousand dollars (\$25,000).

3. My wishes as to certain property described in the 25th paragraph of my last will are thoroughly understood by my sister-in-law, ANNA H. FREER, and my friend, KATHARINE N. RHOADES, as well as by FRANK J. HECKER. It is my will that they shall aid Mr. Hecker in carrying out those wishes and that my Executors shall have the benefit of their knowledge in this respect.

4. I revoke the 27th paragraph of my last will. In lieu thereof I make the following provision that is to say:

I give, devise and bequeath to the SMITHSONIAN INSTITUTION, named in said will, the remainder of my estate real and personal, wherever situated. If any exigency shall arise making such use necessary, the income from such residue of my estate shall be used for the care, protection and maintenance of the building in my said will provided for, and of the collections in my said will mentioned. If no such exigency shall arise, so much of the income from such residue shall be used for the encouragement of the study of the civilization of the Far East, as the Regents of the SMITHSONIAN INSTITUTION shall determine; and the remainder of the income from said residue shall be used for the promotion of high ideals of beauty and, to that end, as opportunities shall from time to time occur to make the same, occasional purchases shall be made of very fine examples of Oriental, Egyptian and Near Eastern fine arts, after

original objects of art produced in the Far East, Egypt or the Near East shall have been examined and approved by one or all of my following named friends, namely, MISS KATHARINE N. RHOADES, MR. AND MRS. EUGENE MEYER, JR., and MRS. H. O. HAVE-MEYER, in consultation with the Fine Arts National Commission, which I require shall be consulted as to all purchases for the collection. Such purchases shall become part of the Freer collection. If, from lack of opportunity, the last described purchases cannot be made, and opportunities from time to time arise for the purchase by the SMITHSONIAN INSTITUTION of works of painting, sculpture and pottery of high aesthetic quality, the work of American painters, sculptors and potters; then such purchases shall be made and the works purchased shall immediately become the property of the United States National Gallery of Art, in perpetuity and for exhibition in its own galleries or for loan exhibition in such other galleries everywhere throughout the world as may seem safe and wise to the Regents of the SMITHSONIAN INSTITUTION (U. S. National Gallery of Art), excepting that no such paintings, works of sculpture or pottery so purchased with any part of said income shall be exhibited permanently in the building mentioned in the 18th paragraph of said will. Such residue of income shall, however, be allowed to accumulate until opportunity arises to purchase objects of art of the very highest quality needed in the collection.

Notwithstanding anything to the contrary contained in any document heretofore executed by me, I empower the SMITHSONIAN INSTITUTION to accept for the Freer Collection such gifts as may be tendered for that collection by MR. and MRS. EUGENE MEYER, JR., MRS. H. O. HAVEMEYER, MR. FRANK J. HECKER, or MR. CHARLES A. PLATT, each of whom has already contributed important art objects to that part of the National Collection at present in my care. Several gifts have already been made by the above named friends to the Freer Collection, but some of them are yet to be delivered thereto at some future period as recorded in the office of the Secretary of the SMITHSONIAN INSTITUTION.

5. Except as hereinbefore stated, I expressly confirm my said last will and testament.

IN WITNESS WHEREOF, I have hereto set my hand and seal this fourth day of May, in the year of our Lord one thousand nine hundred and nineteen.

CHARLES L. FREER (L. S.)



On this fourth day of May, in the year of our Lord one thousand nine hundred and nineteen, the said testator, CHARLES L. FREER, of Detroit, Michigan; signed, at the City of New York, N. Y., the foregoing instrument, in our sight and presence and declared the same to be the first codicil to his Last Will and Testament; and at his request, and in his sight and presence, and in the sight and presence of each other, we have hereunto set our names as subscribing witnesses.

GEORGE DRAPER,

of New York.

ALEXIS C. ANGELL,

of Detroit, Mich.

ORDER PROVING AND ALLOWING WILL

S-30-Form 55-A-2000-2-9-'17.

**STATE OF MICHIGAN** } **ss.** At a session of the Probate Court  
**County of Wayne** }  
for the said County of Wayne, held at the Probate Court Room in  
the City of Detroit, on the sixth day of November in the year one  
thousand nine hundred and nineteen.

Present, Edward Command, Judge of Probate.

**IN THE MATTER OF THE ESTATE OF CHARLES L. FREER,  
DECEASED.**

This day having been appointed for proving the instrument heretofore delivered into this Court, purporting to be the last will and testament of said deceased: and no one appearing to contest the probate thereof. Due notice of the time and place appointed for proving said instrument having been given as required by law: And it appearing to the Court from the testimony of Henry E. Bodman, one of the subscribing witnesses to said instrument purporting to be the last will of said deceased, and of Alexis C. Angell one of the subscribing witnesses to said instrument purporting to be a codicil thereto that said instruments were signed by the said Charles L. Freer and attested and subscribed in his presence and at his request by two competent witnesses, and that said testator was then of sound mind. And it further appearing to the Court that said testator was of full age at the time of executing said instrument, that he died on the twenty-fifth day of September, A. D. 1919, that at the time of his decease he was an inhabitant of said County of Wayne, and that said instruments are duly proved and ought to be allowed as the last will and testament of said deceased: IT IS ORDERED AND DECREED that said instruments be and the same are hereby allowed and that they have full force, and effect as the last will and testament of said deceased. AND IT IS FURTHER ORDERED, that the execution of said will be committed, and the administration of said estate be granted to Frank J. Hecker, Detroit Trust Company, and Charles D. Walcott, the executors therein named, upon their giving bond in the penal sum of one hundred dollars, to be approved by the judge of this court.

Edward Command,  
Judge of Probate.

CHARLES L. FREER TO C. D. WALCOTT

Gotham Hotel,  
Fifth Avenue and 55th Street,  
New York City.

September 9th, 1919.

Dr. Charles D. Walcott,  
Secretary, Smithsonian Institution,  
Washington, D. C.

My dear Dr. Walcott:

Your very interesting and frank letter without date, mailed at Lake Louise on July 3rd, 1919, reached me here duly, and during the many days of illness which have been practically continuous since that time, I have thought of you often, and have enjoyed re-reading what you so kindly wrote me;—and but for medical restrictions would have dictated an earlier reply.

However, in obeying the wishes of my medical advisers, I have had greater opportunity to consider the many items of interest involved in the correspondence, and I am glad to now dictate what follows,—and while I shall mention herein certain suggestions which are, in a sense, apart from the points involved in your letter,—they are, I feel, pertinent to the subject in which we are both so deeply interested. Therefore I hope that you will not misunderstand in any way, such references to the National Gallery of Art as I may feel like offering for your consideration.

But before entering into any, what may seem to you to be side-tracks, I want to say that your explanation of the cause of the delay in the publication of the article written by Miss Rhoades, and the use of the photographs sent therewith,—as it now stands is completely satisfactory to both Miss Rhoades and myself.

During these recent weeks I have also had an opportunity to have copies made of certain bequests in my present Will in which the Smithsonian is interested, and of the Codicil attached thereto. Copies of these are sent herewith in accordance with your request.

I also deem it important to call your attention to conversations had with President Roosevelt and Chief Justice Fuller at the White House, when I had been summoned there to discuss certain conditions named in my original letter of gift to the Smithsonian Institution.

As you doubtless remember, when the report made by the committee of the Regents who visited Detroit at my request,—to inform themselves and the Regents of your Institution, more accurately of the nature of the objects tendered,—was read to the Board of Regents,

President Roosevelt felt it necessary to have certain paragraphs of the letter made to conform with what Chief Justice Fuller felt might interfere with the probating of the Will,—as it was undoubtedly true that the attorneys who represented the Smithsonian, as well as myself, erred in the phraseology of one paragraph of importance,—and at that time it was decided that it would be better to withdraw the original letter and to substitute a new one;—which I wrote personally at the time, and which is now embodied in the contract existing between the Smithsonian Institution and myself.

It was then understood that my gift should become a part of the National Gallery of Art, and you remember that a friendly action against the Corcoran Gallery was shortly thereafter begun in the Supreme Court for the purpose of establishing a separate department of the art interests of the Government. I mention this because I do not feel that my building and its contents should be considered a part of the National Museum,—but instead, a unit of the National Gallery of Art.

I am glad that you recollect the conversation had with me concerning the bequest which includes a willingness on my part to contribute towards the salary of the Curator of my building, and the bequest as originally written, set aside a certain block of stock of the corporation of Parke, Davis and Company, rather than a cash sum. I did this because I felt that the dividends were not likely to be reduced any time in the future, and that the increment or increase in value of the stock would add importantly to the future value of the bequest.

Concerning the bequest to protect the garden of the Freer building—my fear was that some over-economical Congress might not provide for the care of the garden within the court. I knew perfectly well that the grounds surrounding the building were, and without doubt always will be, properly cared for by the government. As you know, Mr. Platt's plans for the court include trees, shrubbery and flowers, and I felt that that particular place might not receive from Congress the care it should have, unless I provided the means, or at least assisted in their provision.

This item and the question of the salary of the Curator I should like to discuss with you sometime in the future.

To my surprise I have recently been asked by various people whether my collection was to be considered as a part of the National Museum or of the National Gallery of Art,—and I feel that to avoid future misunderstandings it is important to have the matter settled

definitely and officially,—and this I fancy can be easily done after you and I shall have met and discussed this and other items involved.

The National Museum at present has on exhibition the Evans Collection of American paintings, which I presume, from talks had with Mr. Evans some years ago,—he wished to have become a part of the National Gallery of Art—and I should be greatly disappointed to have the impression spread through the country that my building and collection are a part of the National Museum.

I have no desire to be prominently associated with the organization of the American National Gallery of Art, nor will my health permit me to participate to any great extent in the work,—but I am taking the liberty of making, for your personal consideration, reference to certain thoughts which have been very constantly in my mind during recent weeks,—and public interest I am glad to say, is being quite noticeably manifested in this great work.

I have thought that there should be one large central building erected in Washington, to be known as the National Gallery of Art, and which should be built to provide for the many gifts which I feel will flow Washingtonward from many American cities.

This building should be under the management and control of a Governing Board, perhaps of both sexes, carefully chosen for their interest in beauty and their knowledge of art, and should have the power to establish the aims and ideals of the National Gallery of Art,—its foundations so to speak.

Such action would locate at Washington a group of individuals who should centralize the work at that point and who would create in the minds of the public, confidence in its ability to,—in a way, aid smaller institutions which may spring up in various cities, in their desire to build, acquire and care efficiently for this field of work, now and in the future.

I feel also that in the future, other donors may wish to erect units at Washington or elsewhere in this country, similar in a sense to my building, and which will also be known as units of the National Gallery of Art. All of these units would work in harmony with, and be under the control of the officials of the main building in Washington; and it seems to me possible that such a scheme could be of great service, not only in Washington but throughout the country. I make mention of this thought here, merely as the opening of a broader field for national understanding, enjoyment and enlightenment of beauty, and its varied expressions,—into places where as yet, light is sadly missed.



The ample study rooms and the varied nature of the collection to go into the Freer unit, will attract scholars from distant countries as well as from far away points in the United States,—and it could, I believe, become eventually, a very valuable educational asset.

Another item of much importance is to have as early as practicable, a definite understanding concerning the duties and responsibilities of Miss Rhoades,—and to this matter I have also given a great deal of careful thought, and I think it would be unwise to classify her as an assistant to the Curator.

She is perfectly competent to make known the ideals underlying my work, and I would like the Regents and those connected with the oversight of my unit, to feel that they could go to her for advice on such matters of importance as may from time to time arise. She has devoted many of the best years of her life to gaining as completely as possible, an insight and thorough understanding of the collection which I have given,—and to which with her aid, I am steadily making important additions.

While we cannot expect her to give too much of her time to our interests, she is willing so long as is possible,—to devote her best energies to all of the many details which no one else is now prepared or trained to undertake, and her association with this work seems to me to be the highest importance.

I shall of course, make such provision for financial remuneration to her, as she would care to accept.

I deem it wise to address this letter to you at Washington, with a request to Mr. Ravenel that he either forward it to you, or hold it at Washington until your return.

With cordial regards, and good wishes, I remain,

Sincerely yours,

[*Note by Dr. Walcott:*] Miss Katharine Rhoades told me November 5, 1919, that Mr. Freer was ill and did not sign above letter.

C. D. W.

C. G. ABBOT TO C. D. WALCOTT

November 17, 1926.

Dear Doctor Walcott:

Considering the large increase in the value of the Freer bequest incident to the advance in the market of the Parke Davis stocks, I note that the present unincumbered income, after the conversion of a considerable portion of the stocks into more diversified securities, amounts to about \$175,000 per annum. It occurred to me to examine the will of Mr. Freer in order that I might penetrate his intent as to the use of this income. I find that the provisions of Article 27 of the will were liberalized by the first codicil, executed May 4, 1919, so that whereas in Article 27 Mr. Freer had contemplated the use of the income from time to time "for the purchase of works of painting, sculpture, and pottery of high æsthetic quality" in the codicil he proposes as the objects for the use of the income: 1, "Encouragement of the study of the civilization of the Far East"; 2, "the promotion of high ideals of beauty"; 3, (incidental to 2), "occasional purchases of very fine examples of Oriental, Egyptian, and Near Eastern fine arts"; and, 4 (as modifying 3), if from lack of opportunity the purchases described in 3 cannot be made, "works of painting, sculpture, and pottery of high æsthetic quality, the work of American painters, sculptors, and potters."

Inasmuch as Mr. Freer has thus desired to broaden the availability of the income of his bequest, it appears to me very desirable to fix the limits as widely as the language of the will permits. I would like to ask, therefore, in the expression "study of civilization of the Far East" what is the interpretation of the word "civilization"? Does it include all of "the state of being reclaimed from the rudeness of savage life and advanced in arts and learning"?<sup>1</sup> If so, is there any inferior limit to the degree of it, short of the moment of the development of man from the brute, at which the application of the income from Mr. Freer's bequest ought to stop?

In the second place, the expression "Far East," does it include India, Dutch East Indies, the Philippines, Malaysia and Australia? If not all of these localities are included in the term "Far East," which ones of them are excluded? It would appear that if the interpretation of "civilization" and of "Far East" would be properly considered as broad as I have indicated, then the support of such work as Dr. Hrdlicka's on the origin and development of man in those countries could properly be undertaken under the Freer bequest.

<sup>1</sup> Century Dictionary, article "Civilization."

In further consideration of the language, we come to the phrase "the promotion of high ideals of beauty." One method of accomplishing this is suggested under the terms which I have numbered as "3" and another method of accomplishing it is suggested by the alternative means which I have numbered "4," but it occurs to me that there is no restrictive intention in the codicil to require the Regents of the Institution to apply that part of the income reserved for the "Promotion of high ideals of beauty" entirely either to method 3 or method 4. It occurs to me that the wideness of the scope of this activity might include the collection of art of high forms, or the study of the exhibition in nature of high forms of beauty which would be susceptible of a very broad scope of enterprises and investigations.

In conclusion, may I inquire whether these aspects of the Freer will have been legally examined and reported upon, so that the Regents of the Institution are fully informed as to the degree of broadness of scope with which the will may be interpreted.

Very respectfully yours,

(Signed) C. G. ABBOT,  
Assistant Secretary.

Dr. C. D. WALCOTT,  
Secretary, Smithsonian Institution.

KATHARINE N. RHOADES TO C. D. WALCOTT

SMITHSONIAN INSTITUTION  
FREER GALLERY OF ART  
WASHINGTON, D. C.

March 20, 1923.

My dear Doctor Walcott:—

As you requested, I have made out a statement of what I believe Mr. Freer meant by the two phrases, "for the encouragement of the study of the civilization of the Far East" and "for the promotion of high ideals of beauty," appearing in the codicil to his will, and I beg to submit it herewith. I trust that it may seem to you to be the kind of statement you had in mind when you talked with me about it, and that it may prove to be of some slight use to you.

Faithfully yours,

(Signed) KATHARINE N. RHOADES

Doctor CHARLES D. WALCOTT, Secretary,  
Smithsonian Institution,  
Washington, D. C.

March 20, 1923

AN INTERPRETATION OF THE MEANING  
OF TWO PHRASES IN PARAGRAPH FOUR OF THE CODICIL  
TO THE WILL OF CHARLES L. FREER  
BY KATHARINE N. RHOADES

By the phrase "for the encouragement of the study of the civilization of the Far East," I believe Mr. Freer included in his thought, all work which would contribute to the intelligent interest in and knowledge and understanding of that civilization. He looked forward to the time when the Gallery would send expeditions to the Far East for cultural and archaeological study and for the acquisition of such available high grade objects as might be deemed desirable to add to the collections now installed in the Freer Gallery of Art. He saw also the need for research work to be carried on at the Gallery and elsewhere by staff members or others invited by the Curator to participate in such work, and the subsequent bringing together in publication or lecture form of such significant material as might be gathered through any of the above named activities. He was most anxious that the Gallery should develop into a vital study-plant and not exist only as a place in which art objects might be preserved and exhibited.

The phrase "for the promotion of high ideals of beauty," is a more difficult one to interpret because of its flexibility and vagueness. In that same paragraph of his will he suggests at least one direction in which his wish can be carried out, in saying "to that end . . . occasional purchases shall be made of very fine examples of Oriental, Egyptian and Near Eastern fine arts." In further interpretation of the phrase I believe that to Mr. Freer it meant the necessity for maintaining certain standards of belief, of judgment, and of conduct through which he might be made aware of the real quality of what the term "beauty" meant to him. The quality of living was what he thought of. In himself he endeavored to achieve a sufficient degree of well-directed and orderly living to enable him to respond to the significance and value of that "beauty." In the work undertaken for him he demanded orderliness, accuracy, comprehensiveness. In connection with the Freer Gallery he would have applied those same qualities, and in order that such standards should be established he would have recognized as of first importance, the organization of an able and excellent staff working with a sense of interest and responsibility toward the quality of all that might be put into or go out from the Gallery, whether it were the inscribing of an office record or the publication of an important document. In other words, no one part of the work could, in his belief, promote high ideals, unless the same quality of endeavor was carried throughout the various departments and activities of the organization.

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J. E. LODGE TO C. G. ABBOT

SMITHSONIAN INSTITUTION  
FREER GALLERY OF ART  
WASHINGTON, D. C.

April 14th, 1927.

My dear Dr. Abbot:—

With reference to our conversation of March 26th, you will doubtless recall that we talked over your plan for allotting a sum of money from the Freer Funds to the prosecution of Dr. Hrdlička's work in Alaska; that I expressed definite objections to such an allotment under the terms and intentions of Mr. Freer's Will, as I understand them; and that we agreed on a scheme for securing an authoritative interpretation of the instruments by which the Freer Foundation was conveyed to the Smithsonian Institution for administration,—or, at least, of such provisions in these instruments as may give rise in the future, as they have in the past, to differences of opinion among those whose duty it is, and will be, to fulfill them in practice. My share in our agreement is, I remember, to furnish you with my interpretation of certain passages in Mr. Freer's Will based on the language of that document, on my acquaintance with Mr. Freer's intentions, and on my expert knowledge both of museum administration and of much of the material comprised in the Freer Collection. Let me add that in doing this, since I have no learning in the Law, I must rely principally on such familiarity as I possess with the ordinary use of English, with Mr. Freer's wishes, and with the best means of carrying those wishes into effect.

Among the nine paragraphs of the Bill of Sale and the fourteen paragraphs of the Will and Codicil referring directly or indirectly to the total Foundation now known as the Freer Gallery of Art, there are two, anyway, which may be thought to require further definition, namely, paragraph 18 of the Will, in which the functions of the Curator of the Freer Gallery are set forth, and paragraph 4 of the Codicil, superseding paragraph 27 of the Will, in which certain activities of the Freer Gallery are specified. First and last, all the points covered by these two paragraphs have been taken up by me, both in conversation and in writing, with the late Secretary, beginning soon after my arrival at the Freer Gallery in the autumn of 1920. Since the commencement of my service here, it has seemed to me that an adequate interpretation of Mr. Freer's Will should be had; Dr. Walcott, however, thought otherwise and preferred to follow the policy of letting precedents accumulate as occasion for setting

them might arise; but inasmuch as some of these precedents, on materialization, seemed to me contrary to the intention and direct interests of Mr. Freer's Foundation, a certain amount of discussion arose between the Secretary and me, to which, so far as it exists in writing, I shall venture occasionally to refer you.

In the 18th paragraph of his Will, Mr. Freer says, . . . . "I give and bequeath to said Smithsonian Institution capital stock of said Parke, Davis and Company of the market value at the time of my death of two hundred thousand dollars (\$200,000.). The cash dividends on said stock, or the income derived from the proceeds of the sale thereof, shall be used by the Regents of said Institution solely for the purpose of hiring a competent Curator, whose first service shall be the faithful oversight, intelligent exhibition and careful protection of the collections transferred by me by deed of gift or bills of sale or bequeathed by this Will to said Institution."

The points in this provision which seem to me susceptible of clearer definition are (a) whether the whole of the annual income derived from the fund thus bequeathed must be paid to the Curator as annual salary, and (b) what Mr. Freer meant by "a competent Curator whose first service shall be the faithful oversight, intelligent exhibition and careful protection of the collections. . . ."

(a) My own tentative answer to the first question would be that while the income of this fund may be paid out to no one other than the Curator, nevertheless, the Regents might still be thought at liberty to decide what proportion of it the Curator shall receive as his yearly salary. That this was quite definitely Dr. Walcott's view, I infer from the fact that he fixed my salary at \$10,000.00 (although the annual income from the fund has regularly exceeded that amount) and also from a memorandum of a conversation he had with Mr. Freer on June 2d, 1918, in which he wrote: "Mr. Freer further stated that he was providing two hundred thousand dollars (\$200,000.) in securities, the income of which was to be used for the payment of the Curator's salary, as might be determined by the Board of Regents of the Smithsonian Institution." On the other hand, a copy of this memorandum having been sent to Mr. Freer on June 3d, the latter wrote to Dr. Walcott in regard to it on June 24th, in part as follows: . . . . "I think it would be wise to have copies of the paragraphs in my Will which relate to Miss Rhoades, and to the bequest of \$200,000.00, the proceeds of which are to be used in providing for a Curator, attached to your memorandum. . . . With these in hand to be attached to your memorandum I feel confident that your records of our conversation will provide accurate interpretation of

the spirit of our talk." As I have already suggested, my personal belief is that while the Regents are clearly limited in the strictest way regarding the purpose to which the income of this fund must be applied, they are not necessarily, at least, deprived of their accustomed power to fix the amount of salary that a Curator of their own appointing shall receive. On the other hand, since Mr. Freer laid stress on the text of this provision as it appears in his Will, and since the only substantial differences between that text and the text of Dr. Walcott's memorandum lie in Mr. Freer's use of the word "solely" and his omission of any stipulation that the Regents shall determine the amount of the Curator's salary, I venture to call the matter to your attention. Neither in talk nor in writing did Mr. Freer ever bring this particular point to my notice; but he made it abundantly clear to me that in providing what he regarded as a minimum salary of \$10,000 for the Curator of his Gallery, he was doing all that lay in his power, as he thought, to make sure that, in any event, neither lack of available money nor variation in administrative policy on the part of those to whom his Foundation was entrusted in perpetuity should ever stand between the welfare of his collection and the employment of the person best fitted to further it.

(b) "A competent Curator," as briefly qualified in this extract from Mr. Freer's Will, should be, in my opinion, one who is thoroughly versed in the best administrative methods applicable to a museum of fine arts. In order that he may give "the faithful oversight" required by Mr. Freer he must be fairly active and of good character; in order that the collections may receive "intelligent exhibition" at his hands, he should have and maintain the widest possible comparative knowledge of the things themselves and of the cultures which produced them, and a serviceable acquaintance with the principal languages involved in their study; and in order that he may give them the necessary "careful protection," he must understand their physical properties, how they are made, what influences endanger them, and how the operation of such influences may best be prevented, checked, or made good. So much, at least, would seem to be clearly implied, by the terms used in the Will, and this view is certainly not weakened, I think, by the following quotation from a letter addressed to me on June 4th, 1919, by Mr. Freer.

"I have thought earnestly and at great length upon this important question of the Keepership (or Curatorship) of the collections:—who best can assume that position and maintain the highest standards in administrative, aesthetic, educational and research

work. After careful consideration I feel that you are the person best qualified and equipped to assume this charge: to take care of the collection itself; to further scholarly research; to deepen the appreciation of the objects in this collection as well as the ideals which govern them, and to administer the necessary directive functions in connection with their storage and exhibition."

Very early, however, in my service at the Freer Gallery, and for reasons which the context should make sufficiently clear, I concluded that further definition of the functions of its Curator would be highly desirable, and I therefore wrote to the Secretary of the Smithsonian on December 20th, 1920, in part as follows:

"I venture to submit to you also seven provisions defining some duties, responsibilities, and powers of the Curator of the Freer Gallery of Art which are not defined in Mr Freer's Will. These provisions, for the most part, were submitted to Mr. Freer and approved by him. I am under the impression that they have been brought informally to your attention also. It seems to me, however, that it would be wise to have them passed on by the Regents, and I therefore beg to be understood as laying them before you with that recommendation.

(1) That the Curator shall, at any time, be granted every facility in informing himself of the state of the funds,—both principle and income,—bequeathed to the Smithsonian by Mr. Freer; (2) That no part of the income of the said funds shall be expended without the knowledge of the Curator; (3) That insofar as may be compatible with the provisions in Mr. Freer's will, no object or objects of any kind shall be purchased for or put in the building or court of the Freer Gallery of Art without the advice and consent of the Curator; (4) Under paragraph four in the First Codicil to the Last Will and Testament of Charles L. Freer, the Curator and those empowered as provided in said paragraph to recommend the purchase of works of art for the Freer Gallery of Art, shall decide whether the opportunity to make such purchases exists; (5) That no person or persons shall be employed or continued in employment on the business of or in the Freer Gallery of Art without the advice and consent of the Curator; (6) That no activities shall be undertaken by, on behalf of, or in the Freer Gallery of Art without the advice and consent of the Curator; (7) The admissibility of any person or persons to enjoyment of the opportunities and privileges afforded by the Freer Gallery of Art shall be decided by the Curator."



To this the Secretary replied in a letter of December 30th, 1920, to which I respectfully refer you, inasmuch as I do not wish to lengthen my present statement unduly by quotations which do not serve to elucidate the points I am now undertaking to cover. I have only to add that I talked over with Mr. Freer the necessary qualifications, responsibilities, and duties of the Curator of the Freer Gallery in substantially the same terms that I used in discussing this matter with Dr. Walcott and am now using in presenting my views to you, and that Mr. Freer was entirely in accord with what I had to say.

In paragraph 4 of the Codicil to his Will, Mr. Freer says, "I give, devise and bequeath to the Smithsonian Institution, named in said will, the remainder of my estate, real and personal, wherever situated. If any exigency shall arise making such use necessary, the income from said residue of my estate shall be used for the care, protection and maintenance of the building in my said will provided for and of the collections in my said will mentioned." Now, paragraph 1 of the Bill of Sale provides for "the construction and equipment of a fire-proof building" to be "used exclusively for storing and exhibiting the objects covered by this instrument . . . ." and paragraph 18 of the Will further defines the building as "a building to house such collection." These definitions seem to me to imply that the Gallery itself, as presented to the Nation and accepted under the trusteeship of the Smithsonian, must be regarded not merely or even chiefly as a structure in which the collection is to lie in storage, but, equally and at the same time, as one in which the activities attendant upon exhibiting the collection are to be carried on; and when, therefore, in paragraph 4 of the same document, Mr. Freer stipulated that "the said building when constructed and the objects when delivered, shall be cared for and maintained perpetually by said second party, or its successors, at its own expense," the further and necessary inference must be that the Gallery was from the beginning supposed by all concerned to be administered as a unit enterprise fulfilling several related functions, and that the running expenses or costs of caring for and maintaining it and the collection it houses may not now rightly be divided into expenses for maintenance on the one hand and for operation on the other as far as the obligation of the Smithsonian is concerned, but must be treated in that relation as a lump expenditure demanded of the Institution by the terms of the Bill of Sale (except as these are superseded by the terms of the Will and Codicil) and covering the labor and material involved in the physical upkeep of the building with respect to repairs, replacements and cleaning; in



the provision of light and heat ; in the physical upkeep of the collections with respect to repairs and cleaning ; in the recording, labeling and moving of objects as required for storage and exhibition purposes ; in the adequate guarding of the building and contents at all times, and in every other activity necessary to make the Gallery, as agreed between Mr. Freer and the Smithsonian Institution, a proper place for "storing and exhibiting" the collections.

The Bill of Sale was executed in 1906 ; but in 1914 it appears that Mr. Freer still retained the views which I believe him to have held and stated in that document eight years before, and this is indicated by his letter of January 29th, 1914, addressed to Dr. Walcott, in which he says : "It is our intention to include in our final plans, designs for furniture, fixtures, show cases and practically everything necessary for the operation of the building except heat, light and the employees." No doubt Mr. Freer supposed, however, that in actual practice, obligations involving the expenditure of money, although incurred by the Institution under the terms of his gift to the Nation, would be met by Congressional appropriation, and I feel sure it was partly, at least, some unaccountable lack of confidence in the regularity with which Congress might be expected to operate that prompted him to make assurance double sure by providing funds in his Will for the employment of "a competent Curator" (paragraph 18), for the "maintenance of gardens in the Gallery court and in the grounds immediately surrounding the building" (paragraph 20) and, *in case of exigency and necessity*, "for the care, protection and maintenance of the building . . . . and . . . . collections" (paragraph 27 of the Will and 4 of the Codicil). It is nevertheless, my firm conviction, based on direct knowledge of Mr. Freer's wishes and intentions as well as on documentary evidence, that the words, "care, protection and maintenance of the building . . . . and of the collections," which appear in paragraph 4 of the Codicil, differ only grammatically and not at all in meaning or implication from the words "cared for and maintained" as used in paragraph 4 of the Bill of Sale. Precisely what their meaning and implication are in my opinion, I have already stated, and I have only to add on the same grounds, that when Mr. Freer said in paragraph 4 of the Codicil "if any exigency shall arise making such use necessary," he was employing the word "exigency" in the sense of emergency, that is to say, a sudden, unavoidable departure from the normal course of events, and certainly did not expect that this provision, which caution and solicitude for the future welfare of his benefaction prompted him to insert in the

Codicil of his Will, could or would ever be so interpreted as to relieve the Smithsonian of its fundamental obligation to care for and maintain perpetually the Freer Gallery and collections at its own expense, or to transfer the financial burden of that obligation to the income of his residual estate by prolonging a genuine emergency until it might well be thought indistinguishable from a chronic condition. There are clear indications, however, that the foregoing point of view has not been wholly shared by the Administration of the Institution, as is suggested by the fact that, with the Secretary's sanction, the services of five watchmen, three lavatory attendants (part time) and three cleaners were paid for out of the Freer funds from May 2nd, 1923, until July 1st, 1926; that the charges incident to keeping the building in a proper state of repair were not assumed entirely by the Institution before July 1st, 1925; and that the high initial cost of putting the collections in good physical condition, as well as the smaller cost of keeping them so, has been from the beginning defrayed from the income of the residual estate. It has been one of my duties to make estimates for the expenses I have just enumerated, and on that ground I have thought it also my duty to protest against the manner in which those expenses have been met. In addition, the Freer funds are regularly drawn upon to provide clerical service in the Secretary's office to the extent of two full-time clerks and one part-time clerk, and to provide also a portion of the Disbursing Agent's salary, the total charges in this connection amounting to an annual maximum of \$4,090. For this latter expenditure there is no provision in the Will, nor have I ever been requested to make estimates covering it; so I have ventured, merely, to acquaint the Secretary with my belief, founded on experience here and elsewhere, that all necessary clerical work involved in the management and disbursement of the Freer funds,—for which, I admit, those funds should pay,—would occupy no more, certainly, than the full time of one competent clerk. On the one hand, I am officially informed that the policy of the Institution is to distribute *pro rata* among the various funds which it administers and spends, the costs of running the Chief Clerk's and Disbursing Agent's offices; on the other hand, Dr. Walcott told me that having ascertained the amount (not less than \$5,000 a year, I should think) that a Trust Company would ask for administering the Freer funds, he thought the Smithsonian was entitled to charge the income from Mr. Freer's Foundation for administrative services not exceeding that amount in cost. Whichever of these modes of computation is actually in practice, the result is that the Freer funds are, in my opinion, being

made to pay for rather more than twice the clerical service that is really required of the Secretary's office. In relation to past discussions of these points, I beg to refer you to my letters of May 31st, 1924, May 25th, 1925, June 1st, 1926, and December 20th, 1926, addressed to Dr. Walcott; and to Dr. Walcott's letter of July 31st, 1926, addressed to me and my reply of August 10th, 1926.

Paragraph 4 of the Codicil then continues: "If no such exigency shall arise, so much of the income from such residue shall be used for the encouragement of the study of the civilization of the Far East as the Regents of the Smithsonian Institution shall determine"; and if I have understood you correctly, it is on this provision and, in particular, on the meaning of the words, "civilization of the Far East," that, in your judgment, the right of the Institution to use the Freer funds for the promotion of archaeological research among the Eskimo and Indian sites of Alaska depends, the controlling factors being in your opinion, the not unusual anthropological classification of the Eskimos and some North American Indians, anyway, as Mongoloids, and the familiar theory that they migrated to this continent from northeastern Siberia.

The generally accepted meaning of the term "Far East" is, indeed, not far to seek, since both current usage and the dictionary define it as comprising China, Japan, Korea and Indo-China. This definition is sometimes loosely extended,—though seldom if ever by careful scholars,—to include Manchuria, Mongolia, Turkestan, Kokonor and even Tibet, as parts and dependencies of the Chinese Empire; and the Malay Peninsular, as part of Indo-China; but not, I think, India or Siberia, and certainly not that part of the latter which lies nearest to Alaska and, incidentally, West of Greenwich,—not East of it. "Civilization," on the other hand, is a far more elastic term, and in its most inclusive application may be characterized as a biological process of such extensive ramifications, known and unknown, that its study would involve every branch of research in which the Smithsonian engages,—from the depths of geology to the heights of astrophysics,—and many more beside. At some time, however, a line must be drawn somewhere,—if only because the annual income of the Freer funds is limited; and under all the circumstances I can think of no fairer contour for that line than Mr. Freer's own wishes and expectations as clearly and repeatedly expressed in his talk, his letters and the scope and character of his Far Eastern collections. Of such evidence there is an abundance, and in the mind of anyone familiar with it,—as anyone might easily become,—no serious doubt can exist, I should think, as

to what Mr. Freer meant by the language he used in providing by Will for the study of Far Eastern civilization. In the collection he gathered during more than twenty-five years of unrestricted acquisition, and finally entrusted to the Smithsonian, there were, at the time of his death, 3,404 Chinese objects, 1,863 Japanese, 451 Korean, 10 Indo-Chinese and 13 Tibetan, a total of 5,741 objects comprising every work of art in the collection which may conceivably be assigned to the Far East, and these he had divided into two primary categories: those which he classified as of good quality or better, and those which he classified as of inferior quality but valuable, nevertheless, as study-material. First and foremost, however, Mr. Freer regarded fine quality as the characteristic which, above all others, makes a work of art worth having, worth studying and worthy of a place in a gallery of fine arts; five minutes conversation with him must have revealed this fact to anyone; on the other hand, he knew quite well that an artifact is more, rather than less, significant scientifically because, in addition to being a specimen of human workmanship, it is aesthetically a masterpiece of its kind, and he therefore undertook to provide in his Will, as he did in his lifetime, for the encouragement of scientific research in a specified field where experience had taught him that the advantages of true scholarship were sorely lacking. His interest in the products of Far Eastern archaeology, however, was definitely limited by their power to throw light on the finest products of Far Eastern art as exemplified, primarily, in his own collection. Civilization meant to him what it ordinarily means to most of us: the upper strata of human culture as distinguished from the lower; with eastern Asia as a geographical division, or with ethnic types which have been more or less acceptably classified as Mongoloid, he was not, merely on that account, concerned; and nothing would have astonished him more, in my opinion, than the suggestion that simply because a culturally primitive people like the Eskimos are often so classified and are believed by many to have come to this continent from northeastern Siberia, or because Chinese are very largely so classified and are known to have come to New York from Canton, any part of the fund which he left "for the encouragement of the study of the civilization of the Far East" should be spent on investigating the anthropology of Alaska or of Mott Street. In view of these considerations, therefore, I would interpret the foregoing quotation from Mr. Freer's will as meaning: comprehensive study, in the field or elsewhere, of culture-material deriving immediately from civilizations of and in China, Japan, Korea and Indo-China,



with primary reference to material of the same sort in the Freer Collection and to the fine arts of those countries in general.

Paragraph 4 of the Codicil proceeds to the following effect :

. . . . "and the remainder of the income from said residue shall be used for the promotion of high ideals of beauty and, to that end, as opportunities shall from time to time occur to make the same, occasional purchases shall be made of very fine examples of Oriental, Egyptian and Near Eastern fine arts, after original objects of art produced in the Far East, Egypt or the Near East shall have been examined and approved by one or all of my following named friends, namely, MISS KATHARINE N. RHOADES, MR. AND MRS. EUGENE MEYER, JR., and MRS. H. O. HAVEMEYER, in consultation with the Fine Arts National Commission, which I require shall be consulted as to all purchases for the collection. Such purchases shall become part of the Freer collection."

Through the terms and fulfillment of this provision, it seems to me, Mr. Freer meant to stimulate still further a general aesthetic appreciation of high quality in works of art by furnishing money for the future purchase of the best obtainable examples of the fine arts produced in the Orient (*i. e.*, the Far East, comprising China, Japan, Korea, Indo-China; the Near East, comprising the Muhammadan countries of southwestern Asia, as Persia, Arabia, Asia Minor and even Turkey in Europe; Central Asia, Tibet, India, Afghanistan, Indonesia) and in Egypt, such purchases to be approved by Miss Rhoades or Mr. Meyer or Mrs. Meyer or Mrs. Havemeyer, while any of these survive, and at the same time, and always thereafter, by the Regents of the Smithsonian Institution and by The Commission of Fine Arts. Since it has been suggested, however, that authority to make purchases under this provision will automatically terminate with the lives of the four individuals named, I venture to substantiate my own interpretation by quoting again from Mr. Freer's letter to me of June 4th, 1919:

"In order that occasionally, in the years to come, important art objects of a high standard of aesthetic quality and excellence, related to the collection as it now exists, may be added thereto, I have left in my will a bequest the income of which is to be expended for such purpose by the Regents of the Smithsonian Institution, providing that the object or objects under consideration are approved by the majority of the members of a committee composed



of the Secretary of the Smithsonian, the National Fine Arts Commission, the Keeper of the Freer Collection, and during their lifetimes, Miss Rhoades, Mrs. Eugene Meyer, Jr., and Mrs. H. O. Havemeyer. This arrangement will, I believe, protect the collection from undesirable additions, and at the same time allow it in the future to expand by the acquisition of specimens of the highest quality.

"I am forwarding a copy of this letter to Dr. Charles D. Walcott, Secretary of the Smithsonian Institution, for the consideration of the Regents of that Institution and himself."

This passage was written just one month after the Codicil was executed, and inasmuch as it would be difficult to find a clearer definition of what Mr. Freer intended to accomplish by his generous provision for future purchases of works of art, I submit it without further comment.

In brief, then, I think Mr. Freer intended the language of his Will to convey simply the meaning which good usage currently gives it. I know he intended to provide enough money to insure, as far as money can, the employment of a Curator who, as a technician representing the authority of the Regents and the Secretary, should be fitted by training and experience to administer the Gallery, to initiate and carry on its special activities, and to make it and keep it in all respects the embodiment of high standards which its founder wanted it to be. I think Mr. Freer regarded the Smithsonian as a trustee, not as a beneficiary, under the terms of his Bill of Sale and his Will. I know he expected the Gallery to be dependent ordinarily upon the Institution for the basic requirements of maintenance and operation, but essentially independent of all except the trusteeship of the Regents in so far as its special activities are concerned, and wholly independent financially in case of emergency. Nothing, I suppose, was farther from his expectation than that the needs of the Gallery would ever be subordinated to the administrative or financial exigencies of the Smithsonian, and in this connection I would refer you to my letter of December 18th, 1926, addressed to Dr. Walcott. I believe Mr. Freer regarded his Far Eastern collection as a general index to the spacious fields of research which he wanted the future activities of the Gallery to cover. Being quite aware that appreciation is a reconstructive process and therefore a matter of aesthetics, not only, but also of sound scholarship, he was willing that the scientific investigations for which he made provision should be pursued as far as the study of the finest examples of Far Eastern art might demand; but

I think his interest in such investigations began and ended there. Finally, I know Mr. Freer intended that suitable additions to his Oriental collections should be bought in future, even after death shall have made it impossible to consult in this regard the four personal friends whose judgment and loyalty to his own ideals he valued most. In this connection, I refer you to my letter of January 20th, 1927, addressed to Dr. Walcott.

Although the foregoing statement is based throughout on my understanding of Mr. Freer's wishes and intentions, it contains a few suggestions for which I alone am responsible, and these, I hope, you will find clearly distinguished in that respect. In any event, there is no need of depending solely on my opinion regarding the ends which Mr. Freer sought to fulfill through the terms of his Foundation, since the testimony of those who knew him longer and better than I, notably Miss Rhoades and Mr. and Mrs. Eugene Meyer, is easily available.

Very respectfully,

(Signed) J. E. LODGE,

Curator.

Dr. C. G. ABBOT,  
Acting Secretary, Smithsonian Institution.

[See also Mr. Lodge's additional note page 59.]

CHARLES L. FREER TO J. E. LODGE

The Gotham Hotel,  
Fifth Avenue and 55th Street,  
New York City.

June 4th, 1919.

John E. Lodge, Esq.,  
Curator of Chinese and Japanese Art,  
Museum of Fine Arts,  
Boston, Mass.

My dear Mr. Lodge:—

We have every reason to believe that within the next twelve months the building which is being erected in Washington for the purpose of housing the art collection presented by me to the United States government, will be in sufficient readiness to warrant our moving the collection—now stored in my vaults and galleries at Detroit—to its permanent home in Washington.

After that shall have been done, the necessary organization and installation will have to be taken up, and this work I believe to be most important. I therefore think that whoever is hereafter to take charge of the collection should be invited now to accept the appointment, so that it will be possible for him to advise and direct this preparatory work.

I have thought earnestly and at great length upon this important question of the Keepership, (or Curatorship,) of the collection;—who best can assume that position and maintain the highest standards in administrative, aesthetic, educational and research work. After careful consideration I feel that you are the person best qualified and equipped to assume this charge: to take care of the collection itself; to further scholarly research; to deepen the appreciation of the objects in the collection as well as the ideals which govern them, and to administer the necessary directive functions in connection with their storage and exhibition.

As you know, the collection is already the property of the government, and I therefore, have not the privilege of inviting you to become Keeper of the Freer Collection,—but I want to express to you, and through you to the President and Trustees of the Boston Museum of Fine Arts, my wish that you should be invited by the Regents of the Smithsonian Institution to accept that appointment.

As I am most anxious to avoid misunderstanding or lack of collaboration between the Washington Museum and your President and

Trustees, I should like the entire matter presented to them, in the hope that they may agree fully with me in the wisdom of this step.

I should wish that the scope of your activities would include a continuation of your relationship with the Boston Museum in an advisory capacity, and also to allow for future associations with other leading art museums both American and foreign.

I believe that eventually there will be erected in Washington, a great national building which will include a central art gallery and also, thereafter, many individual and co-ordinated units, of which my building is to be the first erected, and I therefore feel that the more closely we can induce constructive association and co-operation between museums, the finer and more valuable will the influence of art become upon the community at large—not only in this country but in all countries. Especially do I feel this true in the field of Oriental art, for as you know, several of America's leading museums besides those at Boston and New York, are already seriously considering important purchases in this field. In our building, with its liberal study rooms and lecture hall, special opportunities should be provided for students from all museums who desire information in this particular field.

In connection with the Keeper's duties, privileges and responsibilities, he will have as associate, Miss Katharine N. Rhoades, who has been studying and working with me in the collection during the past several years in order that she might be able to represent me and aid in the future work of the collection. She will be particularly valuable in organizing the educational work proposed above. Her judgment and knowledge of the most important divisions of my collection are of the highest order, but her aesthetic understanding and appreciation in the entire field covered thereby is, I feel, her greatest contribution. I suggest, therefore, that Miss Rhoades be given the title of Associate Keeper, or Associate and Adviser of the collection.

In order that occasionally, in the years to come, important art objects of a high standard of aesthetic quality and excellence, related to the collection as it now exists, may be added thereto, I have left in my will a bequest to be expended for such purpose by the Regents of the Smithsonian Institution, providing that the object or objects under consideration are approved by the majority of the members of a committee composed of the Secretary of the Smithsonian, the National Fine Arts Commission, the Keeper of the Freer Collection, and during their lifetimes, Miss Rhoades, Mrs. Eugene Meyer, Jr., and Mrs. H. O. Havemeyer. This arrangement will, I believe, protect

the collection from undesirable additions, and at the same time allow it in the future to expand by the acquisition of specimens of the highest quality.

I am forwarding a copy of this letter to Dr. Charles D. Walcott, Secretary of the Smithsonian Institution, for the consideration of the Regents of that Institution and himself. I have every belief that they will entirely concur with me in the matter of your appointment.

With kindest regards and every good wish, believe me,

Sincerely yours,

(Signed) CHARLES L. FREER

P. S. Should the position, as herein outlined, appeal to you, there would be additional conditions which should be worked over between yourself and Dr. Walcott, and I have deemed it unwise to include them here at present.



J. E. LODGE TO CHARLES L. FREER

MUSEUM OF FINE ARTS  
BOSTON, MASS.Department of Chinese  
and Japanese Art.

June 7, 1919.

My dear Mr. Freer:—

Please accept my best thanks for your letter of June 4th. You will be glad to know that it arrived in time to be presented at the meeting of the Executive Committee of our Trustees, and that their action was entirely favorable. I simply presented it together with my recommendation that your plan be agreed to, and I now enclose a copy of the Committee's vote. I feel sure that you will agree with me that our Trustees have acted in this matter with understanding and liberality, and I hope you will agree, too, that a corresponding attitude on the part of the Regents of the Smithsonian Institution is practically essential if your far-sighted plan is to have the sort of start for which all concerned must hope. As I understand the matter and as the Trustees of this Museum understand it, the administrative welfare of the Boston Museum collections of Chinese and Japanese Art, and the Freer collections is put into my hands, with full responsibility and proportionate power to do my best for both. The judges of my success will be our Trustees here on the one hand and on the other yourself or officially, perhaps, the Regents of the Smithsonian.

Perhaps I did not tell you when I had the pleasure of seeing you in New York that, inasmuch as my Assistant Curator here is to be away in China and Japan during the coming summer and autumn, it will be impossible for me to take up any such duties in connection with your Museum as would require my absence from Boston before the middle of next December at the earliest. In the meantime, however, if you wish to see me about anything, I shall always be glad to come to New York for a day or two just as I did a few weeks ago.

With the warmest regards to you and to Miss Rhoades, I am

Faithfully yours,

(Signed) J. E. LODGE,

Curator.

Charles L. FREER, Esq.,  
Gotham Hotel,  
Fifth Avenue and Fifty-fifth Street,  
New York City.

[ENCLOSURE]

AT A MEETING OF THE COMMITTEE  
ON THE MUSEUM

June 5th, 1919.

It was

*VOTED*: That the plan proposed by Mr. Lodge for cooperation between this Museum and the Freer section of the National Museum in Washington be approved in principle, viz. that Mr. Lodge be granted such leave of absence as he may deem necessary to organize the Freer Collection and act as its Keeper or Curator.

A true copy: attest

(Signed) H. L. STORY,  
Secretary *pro tem.*

CHARLES L. FREER TO J. E. LODGE

The Gotham Hotel,  
Fifth Avenue and 55th Street,  
New York City.

June 12th, 1919.

John E. Lodge, Esq.,  
Curator of Chinese and Japanese Art,  
Museum of Fine Arts,  
Boston, Mass.

My dear Mr. Lodge:—

Your letter of June 7th, and with it a copy of the vote passed at the meeting of the Executive Committee of your Trustees on June 5th, were duly received by me—and I have read them both with interest and great care.

The proposition as outlined in both of these documents, is so contrary to my thoughts and ideals, so unlike the suggestions as discussed frankly by ourselves, and by Mrs. Meyer and Miss Rhoades with you and with Mr. Ross—that I am convinced that the wisest course to pursue, for all concerned, is to drop the entire matter as it stands, and treat it as a closed incident which failed of accomplishment because of serious differences concerning the duties, privileges and responsibilities involved.

I deem it unwise to submit to the Regents of the Smithsonian Institution, the vote of your Trustees' Committee, as sent to me, or the suggestion that the administrative welfare of the Boston Museum collections of Chinese and Japanese Art and the Freer Collections, be put absolutely into your hands—giving you unlimited authority to decide, regardless of the views of the Regents of the Smithsonian, how much of your time shall be spent at each museum.

Moreover, I feel that no Keeper of the Freer Collection should occupy the post as one only on "leave of absence" from another institution.

My plan for co-operation between the two museums named herein, and eventually, as proposed, between many others—here and abroad—I fancy must regretfully again wait for a more propitious time before it can materialize.

With cordial regards,

Sincerely yours,  
(Signed) CHARLES L. FREER

J. E. LODGE TO CHARLES L. FREER

MUSEUM OF FINE ARTS  
BOSTON, MASS.Department of Chinese  
and Japanese art.

June 13th 1919.

My dear Mr. Freer:

Please accept my thanks for your letter of June 12th.

Owing, perhaps, to the fact that I did not have the advantage of discussing with you personally the various aspects of your second plan and offer, I feel some little surprise and a great deal of genuinely impersonal regret that its reception and interpretation by the Trustees of this Museum and by myself should turn out to be so entirely opposed to what you had in mind. It does not occur to me to question the wisdom of your decision; undoubtedly, feeling as you do, no other decision would have been admissible; but in order to insure a perfect understanding among all concerned, I desire to say that, under any circumstances,—whether I had become Keeper solely of the Freer Collections, as you at first suggested, or had undertaken the double task of managing the Department of Chinese and Japanese Art here as well, as you afterward thought possible,—I should have expected the Regents of the Smithsonian Institution to accord me the same measure of administrative responsibility and authority that the Trustees of the Boston Museum have always put in my hands and have just now, as you see, felt justified in freely and formally granting by vote of their Executive Committee.

Let me express to you again how sincerely I value your sympathetic view of my work here, as implied in your thought of me as a possible custodian of the splendid material and spiritual foundation you are laying in Washington; and let me add my hope that you and the future Keeper of your collections will feel,—as *you* have long been at liberty to feel—how very much at your service my interest and cooperation, if you want them, will always be.

With best regards and thanks to you, I am

Faithfully yours,

.(Signed) J. E. LODGE,  
Curator.CHARLES L. FREER, Esq.,  
The Gotham Hotel,  
Fifth Avenue and 55th Street,  
New York City.



C. D. WALCOTT TO J. E. LODGE

December 30, 1920.

Dear Mr. Lodge:

Replying to that portion of your letter of December 20 referring to some of the duties, responsibilities, and powers of the Curator of the Freer Gallery of Art, which are not defined in Mr. Freer's will:

The Secretary of the Smithsonian Institution is directed by the organic act creating the Institution (Section 5583), to take charge of the building and property of the Institution, and shall, under their (the Regents) direction, make a fair and accurate record of all their proceedings, to be preserved in the Institution; and shall also discharge the duties of librarian and of keeper of the museum, and may, with the consent of the Board of Regents, employ assistants.

In the Report of the Executive Committee submitted to the Board of Regents in 1851, the following paragraph occurs:

"The operations of the Institution now follow a regular course, and therefore as frequent meetings of the Committee are not required as at the beginning. Indeed, they prefer to leave the principal direction of the affairs of the Institution to the Secretary, believing that individual responsibility is the safe ground for confidence in the proper administration of a trust of this kind."

The policy outlined in the above paragraph has been pursued since 1851, the Secretary submitting an annual report to the Board of Regents, also laying before the Executive Committee all important matters, especially those involving any change in policy or considerable expenditure.

In the case of the Freer gift, the Board of Regents at their meeting in December, 1919, authorized the Permanent Committee, which consists of the Executive Committee and the Secretary, to carry into effect the purposes of the gift; and again at the meeting on December 9, 1920, resolutions were passed authorizing the Secretary to carry into effect the provisions of the will, as far as the funds for the same have been transmitted to the Smithsonian Institution. A resolution was also passed as follows:

*RESOLVED:* That the Board of Regents of the Smithsonian Institution hereby appropriates Twenty thousand dollars (\$20,000) annually from the income of the residual estate of Charles L. Freer, to be expended in accordance with plans prepared by the Secretary and approved by the Permanent Committee, for the encouragement of the study of the civilization of the Far East, as directed by

Mr. Freer in Paragraph 4 of the First Codicil to his last Will and Testament; any uncommitted balance of the Twenty thousand dollars (\$20,000) appropriated for any one calendar year to revert to the income of the residual estate.

The preceding information is given to you in order that you may understand the situation and the relations of the Secretary to the administration of the affairs of the Institution.

You have been nominated by the Secretary to the Permanent Committee as Curator; this nomination has been approved, and the appointment made. The appointment of assistants for the Freer Gallery of Art will be made by the Secretary, on the nomination of the Curator, it being understood that all appointments other than those of a technical or expert character are to be made under Smithsonian service rules and regulations. All employees paid from Government appropriations are required by law to be made under Civil Service regulations.

The following is a brief statement for your information as the Curator of the Freer Gallery of Art:

(1) The Curator will be furnished with a monthly statement of the income and expenditure on account of the Freer Gallery of Art.

(2) That insofar as may be compatible with the provisions in Mr. Freer's will, no object or objects of any kind shall be purchased for or put in the building or court of the Freer Gallery of Art without consultation with and approval of the Curator.

(3) Under paragraph four in the First Codicil to the Last Will and Testament of Charles L. Freer, the Curator and those empowered as provided in said paragraph to recommend the purchase of works of art for the Freer Gallery of Art, shall consider and recommend to the Secretary whether the opportunity to make such purchases exists.

(4) That no person or persons shall be employed or continued in employment on the business of or in the Freer Gallery of Art, except in the Secretary's office, without consultation with the Curator.

(5) That no activities shall be undertaken by, on behalf of, or in the Freer Gallery of Art without the Curator being consulted.

(6) The admissibility of any person or persons to enjoyment of the opportunities and privileges afforded by the Freer Gallery of Art shall be approved by the Curator, except as to the admission of the public to the exhibition rooms in official hours.

(7) In an emergency when the Curator is not available for consultation, the Secretary of the Smithsonian Institution will act.

C. D. WALCOTT TO FRANK J. HECKER

January 3, 1923.

Dear Colonel Hecker:

In talking with Mr. Freer about the salary of the Curator of the Freer Gallery of Art, he stated that he thought he should be paid from \$6,000 to \$10,000 per annum, and that he had left sufficient funds to provide for such a salary. He did not state what he thought should be done with any income from the Curator's Fund, over and above the amount of salary paid to the Curator. At the present rate of dividends of the P. D. and Co.'s stock, the income of the Curator's Fund is over \$13,000., and if the business is very successful it may in the course of a year or two be over \$24,000., which of course is far more than should be paid a Curator.

The practical view would seem to be that the Fund should be expended for the salary of the Curator and of assistants, to enable him to more fully carry out his first service which shall be "the faithful oversight, intelligent exhibition and careful protection of the collections." If this is not done, the surplus income might be transferred to the residual income or added to the Curator's Fund.

In a letter to me dated September 9, 1919, Mr. Freer stated that he wished to talk over the Curator's salary with me, along with some other items. This letter I did not receive until after his death. This indicates that he had some thought which he had not communicated to me.

I expect to bring this matter of the use of the Curator's Fund to the attention of the Board of Regents at its meeting on February 8th, and obtain a decision as to how the Board thinks it should be treated. Meantime I am gathering all the information and opinion possible in relation to it.

Thanking you for any assistance you may be able to render,

Sincerely yours,

(Signed) C. D. WALCOTT.

Colonel FRANK J. HECKER,  
915 Union Trust Building,  
Detroit, Michigan.

FRANK J. HECKER TO C. D. WALCOTT

FRANK J. HECKER  
DETROIT, MICHIGAN.

915 Union Trust Building,  
January Tenth, 1923.

Dr. Charles D. Walcott, Secretary,  
Smithsonian Institution,  
Washington, D. C.

Dear Dr. Walcott:

I have been rather under the weather for the past week which is the reason of my not earlier replying to your communications of the third instant.

There being no provision in Mr. Freer's will respecting the continuance of the investment of the residuary estate in Parke, Davis & Company stock, it is evidently the province of the Regents, if in their opinion it is not advisable to permanently continue holding all the stock of that company, which by reason of stock dividend exceeds 40,000 shares, to dispose of a portion of it, which in my opinion should be invested in United States Government bonds.

Respecting the compensation of the Curator, inasmuch as the present income from the Parke, Davis & Co. stock set aside by Mr. Freer for that purpose largely exceeds the sum of \$8,000. per annum, which I believe it now is, there seems no reason why provision could not be made for Assistant Curators with salaries such as would seem to the Regents suitable and proper within the income from the Curator's Fund as specified in Mr. Freer's will under Section 8, item 4.

I am very glad, indeed, to learn that opening week for the Freer Gallery of Art has been fixed for May 2-8 and if all goes well the invitations to same will soon be issued.

With personal regards and all good wishes,

Ever sincerely yours,

(Signed) FRANK J. HECKER.



C. D. WALCOTT TO CHARLES A. PLATT

January 29, 1924

Dear Mr. Platt:

In connection with the Freer Gallery the question has come up as to whether it was Mr. Freer's expressed wish and desire that there should be several rooms used for the installation of the paintings by American artists in his collection; that is, there should be a Dewing Room, a Thayer Room, and a Tryon Room, and that these rooms should be a permanent feature of the building and the exhibits. This was my impression, but as you talked over the planning of the building with him and knew his desires more thoroughly than anyone else, will you not kindly write me as fully as you can about it.

Trusting that you are in the best of health, and with all best wishes,

Sincerely yours,

(Signed) CHARLES D. WALCOTT.

Mr. CHARLES A. PLATT,  
101 Park Avenue,  
New York City.

CHARLES A. PLATT TO C. D. WALCOTT

CHARLES A. PLATT, ARCHITECT  
101 Park Avenue, New York

January 31, 1924

My dear Dr. Walcott:

Replying to yours of January 29th, Mr. Freer had the intention of devoting galleries No. 12, No. 13, No. 14, and No. 15 to American painters, exclusively. Room No. 12 was to be given to Mr. Tryon, No. 13 to Mr. Dewing, No. 14 to Mr. Thayer, No. 15 to miscellaneous.

I think, however, had Mr. Freer been alive at the time the pictures were hung he would have seen the advantage of hanging some of the Thayers and Tryons together rather than separating them entirely, although I have felt that the Dewings should be kept by themselves.

I enclose a diagram of the galleries.

Faithfully,

(Signed) CHARLES A. PLATT.

Dr. CHARLES D. WALCOTT  
Smithsonian Institution  
Freer Gallery of Art  
Washington, D. C.

C. D. WALCOTT TO J. E. LODGE

February 8, 1924.

Dear Mr. Lodge:

I have made a careful examination of all records left by Mr. Freer in regard to his collection and its installation in the Freer Gallery building. Two wishes are clearly expressed, among others; one, that the exhibition rooms on the south side of the building shall be used for Whistler paintings, etchings, etc. Second, that exhibition rooms Nos. 12, 13, 14 and 15, as indicated on the approved plans, shall be used for the exhibition of the paintings of Dewing, Thayer, Tryon, and paintings by miscellaneous American artists. These wishes were carried out in the first installation, but the removal to storage of the paintings by Dewing, Thayer, Tryon and other American painters, is contrary to the wishes of Mr. Freer and to the spirit of his understanding with the Committee of the Board of Regents.

In view of the above, will you not promptly issue instructions to have the paintings of Dewing, Thayer, Tryon, and other American paintings that were removed from the exhibition rooms 12 to 15, returned to those rooms, installed, and the rooms opened to the public.

Very truly yours,

(Signed) CHARLES D. WALCOTT,  
Secretary.

Mr. JOHN E. LODGE,  
Curator, Freer Gallery of Art,  
Washington, D. C.

(Museum of Fine Arts, Boston Mass.)

J. E. LODGE TO C. D. WALCOTT  
SMITHSONIAN INSTITUTION  
FREER GALLERY OF ART  
WASHINGTON, D. C.

Boston, Mass.

February 12, 1924.

My dear Dr. Walcott:

In response to the instructions contained in your letter of February 8, I am directing Miss Guest to have the present exhibition of Whistler etchings in galleries 1, 2, 3 and 4, in the Freer Gallery, taken down, and paintings by American artists other than Whistler substituted for them, this change to take place on Monday, February 18,—the next closed day for the Gallery.

Perhaps I ought to say that in installing the exhibitions with which the Freer Gallery opened its public career, and more particularly with regard to the galleries on the South side of the building as well as galleries 1, 2, 3 and 4, I was actuated relatively little,—perhaps less than I ought to have been,—by any preference of Mr. Freer's, which, moreover, I did not happen to know at the time had been so definitely expressed, understood and accepted. What controlled me with regard to the galleries on the South side, was the Peacock Room, and what controlled me in general, was a desire to present, at the beginning, as fairly as I could, an idea of the character and quality of the Freer Collection as a whole.

At present,—quite apart from my personal opinion that the Whistler etchings are far better things of their kind than the Thayer, Dewing and Tryon paintings are of their kind, and from my regret that one of the most comprehensive exhibitions of Whistler's etched work ever put up must so soon make room for less significant things, which, unlike etchings, are almost as easily to be seen when not on exhibition,—I venture to hope that Mr. Freer's wishes, without reference for the moment to what things the public likes best or misses most, may not be the controlling factor in your policy with regard to the use of the exhibition space in the Freer Gallery. Without any intention of insisting at all on my own preferences as opposed to your decision in this particular case, I cannot help feeling that it would be a pity to set a precedent of this sort for similar cases which may arise in the future. Even now, at the outset, we are obliged to deal with a Museum situation involving a ready-made, miscellaneous Collection of extremely unequal quality, a practically inexpansable Museum building and a very handsome income from which additions

to the Collection are to be made. These are conditions,—advantageous or not,—from which we can never wholly escape, and if it were possible to avoid the initiation of a policy which would still further limit our power to show in detail also, from time to time the character and quality of the Freer Collection as it is and as it must come to be, I, for one, should feel much relieved in thinking of the future. Moreover, it seems to me that however applicable they may seem to be in a certain case, restrictions based on what Mr. Freer, with no possible knowledge of actual circumstances, may have thought he would like to have done, are those least desirable to insist on if there be any way out of it.

Very respectfully yours,

• (Signed) J. E. LODGE,  
Curator.

Dr. CHARLES D. WALCOTT,  
Smithsonian Institution,  
Washington, D. C.

C. D. WALCOTT TO J. E. LODGE

October 9, 1925

Dear Mr. Lodge:

The question of carrying out the wishes of Mr. Freer in regard to the American paintings has come up again from an unexpected quarter, so I am sending you a copy of a letter I wrote you on February 8, 1924, cancelling that date and inserting October 9, 1925.

Very truly yours,

(Signed) CHARLES D. WALCOTT,  
Secretary.

Mr. JOHN E. LODGE,  
Museum of Fine Arts,  
Boston, Mass.

C. D. WALCOTT TO J. E. LODGE

October 9, 1925.

Dear Mr. Lodge:

I have made a careful examination of all records left by Mr. Freer in regard to his collection and its installation in the Freer Gallery Building. Two wishes are clearly expressed, among others; one, that the exhibition rooms on the south side of the building shall be used for Whistler paintings, etchings, etc. Second, that exhibition rooms Nos. 12, 13, 14 and 15, as indicated on the approved plans, shall be used for the exhibition of the paintings of Dewing, Thayer, Tryon, and paintings by miscellaneous American artists. These wishes were carried out in the first installation, but the removal to storage of the paintings by Dewing, Thayer, Tryon, and other American painters, is contrary to the wishes of Mr. Freer and to the spirit of his understanding with the Committee of the Board of Regents.

In view of the above, will you not promptly issue instructions to have the paintings of Dewing, Thayer, Tryon, and other American paintings that were removed from the exhibition rooms 12 to 15, returned to those rooms, installed, and the rooms opened to the public..

Very truly yours,

(Signed) CHARLES D. WALCOTT,  
Secretary.

Mr. JOHN E. LODGE,  
Curator, Freer Gallery of Art,  
Washington, D. C.

(Museum of Fine Arts, Boston Mass.)



NOTE BY MR. LODGE, JANUARY 30, 1928

The "exhibition rooms Nos. 12, 13, 14 and 15," referred to in Dr. Walcott's letter, are the same as "galleries 1, 2, 3 and 4," referred to in mine. The exhibitions ordered by Dr. Walcott, in his letter of February 8th, 1924 (page 53), were put up on February 18th, 1924, and remained on the walls for over a year. On March 23rd, 1925, Galleries 1 and 2 were rehung with etchings, lithographs and lithotints by Whistler and Galleries 3 and 4 were hung with paintings by Metcalf, Thayer, Twachtman, Dewing, Sargent, Homer, Tryon, Brush and Melchers.

J. E. LODGE TO C. D. WALCOTT

Boston, Mass.

October 15, 1925.

My dear Dr. Walcott:—

Please accept my best thanks for your letters of the 9th and 10th \* \* \*. With regard to what you say about the four small galleries on the north side of the Freer Building, I venture to point out that the situation, as far as installation in these galleries goes, is different from what it was about a year ago, in that, whereas then no pictures either by Dewing or by Tryon were shown in them, there are now representative works by both these men, as well as by Thayer and other American painters, exhibited on the walls of two of them,—though the other two, this year as last, are devoted to etchings and lithographs by Whistler. Had I not been quite genuinely of the opinion that this exhibition of paintings by Thayer, Dewing, Tryon and other Americans, even without considering the unrivalled facilities for the study of similar pictures in the basement of the Building, did substantial and defensible justice to Mr. Freer's wishes, I should certainly not have put myself in the position of seeming to act in any way contrary to your instructions of a year ago in this same matter, and I beg you to believe that nothing I have done or said about it, or shall say, is done or said in a spirit of insubordination. Nevertheless, I have one or two ideas with regard to the policies involved in the action you are taking in this case which seem to me, as I hope they may seem to you, worth considering.

In general, I should say that merely as a matter of sound administration no museum can successfully conduct a growing collection in connection with rigid, immutable allotments of exhibition or storage

space. At most, it might be true that if a collection as various as Mr. Freer's could grow with reasonable uniformity in all its branches, a proportionate uniformity in the allotment of exhibition and storage space might be maintained until the collection should outgrow the capacity of the Building itself. But inasmuch as works of Oriental art, and these alone, may be added to the collection, the balance left by Mr. Freer must necessarily change, and this change must become apparent in exhibition galleries and storage rooms. In my humble opinion, the day cannot be far distant when, as a matter of sound Museum policy, it will become necessary for the growing collection of Oriental Arts to encroach upon the galleries now devoted to the works by Whistler and other American artists; but even today, the fact that the collections of American Art alone so far surpass in amount the capacity of the exhibition spaces allotted to them that temporarily to reduce in number, merely, the exhibition of works by one artist, in order temporarily to increase the exhibition of works by another, is a degree of flexibility wholly justified not only by the size of the Collection in relation to the Building, but also by Mr. Freer's ideas with regard to the value and interest of changing exhibitions. Quite frankly, it strikes me as a great pity that the chance phraseology of an architect on a printed plan, or even the preferences expressed by Mr. Freer,—who had no greater working knowledge of museums than I have of refrigerator cars,—should be given even the ghost of an avoidable chance to control arbitrarily, for years to come, the administration of the Museum which its generous donor never even saw.

While I freely admit that a strict construction of the documents in the case may be thought to lead to the conclusion you have reached, I am none the less hopeful that the liberal construction I am advocating may, in the end, appeal to you more strongly. I realize, however, the adverse criticisms of the present Exhibition in the four Galleries under discussion may readily, and perhaps quite properly, impress you more than they impress me. Most of my museum experience, however, has been gained in an Institution which, like many others of its kind, out of sheer necessity, has made its living by begging and has felt the need, as other beggars do, of paying great attention to the tastes and fancies of the more vocal members of the community which supports it by charity. Personally, I have always thought such an attitude would be productive of more harm than good to the Institution having it. To begin with, it is obviously impossible to please everybody all the time, and an effort to avoid treading on the toes of the invariably noisy faultfinder is too apt to involve step-

ping backward on to the more numerous toes of those who approve in silence,—an institutional gesture which my own observation has not led me to think of as graceful or as likely to produce a feeling of confidence in the minds of the interested, thinking public, even when a rule can be cited in justification either of the gesture or of the criticism which provokes it. By sad experience I am so familiar with the point of view involved that even though I cannot sympathize with it, I can at least understand it. But in the case of the Freer Gallery, which its founder tried so hard, and to a great extent so successfully, to make independent of outside influences, it does seem to me, and doubtless to you also, more genuinely subversive of the Founder's intention that individual adverse criticism of the Gallery should be given more than its integral intrinsic weight in controlling our policy, than that two exhibition rooms, instead of four, should be filled always and forever with the works of Messrs. Dewing, Tryon and Thayer. This I say, of course, in complete ignorance of the identity of those whose criticisms have reached your ears, but even under such circumstances I feel convinced that both the substance of Mr. Freer's wishes, and the enlightened conduct of his Gallery will be far safer in your hands and mine if we do not allow ourselves to be unduly moved by self-appointed guardians of Mr. Freer's Foundation who are personally fond of Dewing, or personally admire Tryon's work, or for acutely personal reasons do not care to have any of Thayer's pictures even temporarily withdrawn from exhibition, because such action might conceivably injure their market value.

I hope you will find yourself able to bear patiently these many words. The fact that they represent my best thought in the matter will not, of course, affect the entire cheerfulness with which I shall at once direct such changes in exhibition as you desire to be made.

Sincerely yours,

(Signed) J. E. LODGE,  
Curator.

NOTE BY MR. LODGE, JANUARY 30, 1928

On May 26th, 1927, Mr. Lodge submitted to Dr. Abbot his estimates covering the activities of the Freer Gallery for the fiscal year 1927-1928, in the course of which he recommended that, whereas it had previously been the practice to charge certain salaries to "Education," or "Preservation of the Collections," and pay them from the Residuary Estate, it would be better, pending an authoritative interpretation of Mr. Freer's Will, to designate the services covered by these salaries as "Curatorial," and pay them from the surplus income of the Curator's Salary Fund.

To this procedure as a temporary expedient Dr. Abbot agreed in his letter of May 28th, 1927.

Mr. Lodge said further, "strictly speaking, I do not believe the Institution as a Trustee has any right to use either the income or the principal of the Funds bequeathed by Mr. Freer for any purposes other than those stipulated in his Will. If, in any year, the income of one of the Funds were to exceed the requirement for the designated purpose, it would be proper, I suppose, in the absence of any inconsistent provision, either to accumulate the income and use it for the specified purpose in any future year, or to add it to the principal; but I should think the Institution would not have authority to devote the unused income to other purposes if the bequest authorizes its use for a specific purpose only. If the income of a fund should constantly accumulate from year to year, the only remedy, as I see it, would be for the Institution to apply to a court of competent jurisdiction for authority to use the surplus income for purposes of a similar nature to that prescribed, on the ground that the Foundation as a whole shows a definite, general intention, and that its provisions were not meant to limit the use of a particular Fund for an indefinite period during which the opportunity for such use might well not arise. I venture, therefore, to lay stress once more on my hope that an adequate interpretation of the provisions of Mr. Freer's Will may soon be had, and on my wish to be understood as suggesting makeshift procedure *ad interim* only."





(8) The Curator will submit annually a written report to the Secretary of the Smithsonian Institution on the condition and operations of the Freer Gallery of Art during the previous fiscal year. Such reports should be forwarded before September 1, in order to be printed in the Annual Report of the Secretary to the Board of Regents.

Very truly yours,

(Signed) C. D. WALCOTT  
Secretary.

Mr. JOHN E. LODGE,  
Freer Gallery of Art,  
Smithsonian Institution,  
Washington, D. C.

C. D. WALCOTT TO FRANK J. HECKER

January 3, 1923.

Dear Colonel Hecker:

As you know, the last act necessary in the closing out of the Freer Estate has been taken and the Smithsonian Institution is now in full possession. I am glad to tell you that we are planning to have an opening week for the Freer Gallery of Art, May 2-8, and if all goes well the invitations will soon be issued, in order that they may reach Mr. Freer's friends in the Orient and Occident, as well as all interested in oriental art. Mr. Lodge, Miss Rhoades, and Miss Guest are working away most enthusiastically and it looks as though everything will be in readiness for the opening on the date mentioned.

As the result of the 100 per cent dividend of Parke, Davis & Co., the Smithsonian is now holding over 40,000 shares of their stock. It is evidently not wise to continue all of this holding for any considerable length of time, so I am asking you if you can advise us in the matter. Mr. Freer frequently told me that he believed the P. D. & Co. stock was as good as a Government bond, and this may be entirely correct, but our Board of Regents feel that the investments held by the Institution should be those acceptable for investments of trust funds in the Eastern States. Any information or advice you may be able to give will be considered confidential, and we shall be very grateful to you for it.

I am writing you a separate letter in relation to the interpretation to be placed upon the clause in Mr. Freer's will under Section 18, item 4, which reads as follows:

"In addition to the gifts last above mentioned, I give and bequeath to said Smithsonian Institution capital stock of said Parke, Davis & Company of the market value at the time of my death of two hundred thousand dollars (\$200,000). The cash dividends on said stock, or the income derived from the proceeds of the sale thereof, shall be used by the Regents of said Institution solely for the purpose of hiring a competent curator, whose first service shall be the faithful oversight, intelligent exhibition and careful protection of the collections transferred by me by deed of gift or bills of sale or bequeathed by this will to said Institution."

Very truly yours,

(Signed) C. D. WALCOTT.

Colonel FRANK J. HECKER,  
915 Union Trust Building,  
Detroit, Michigan.





SPECIFIC POINTS ON WHICH DIFFERENCES OF INTERPRETATION HAVE ARISEN, AND WHICH ARE RESPECTFULLY SUBMITTED BY THE SECRETARY TO THE BOARD OF REGENTS WITH REQUEST FOR DEFINITIVE DECISION.

MEMORANDUM, MAY 11, 1927, BY C. G. ABBOT, ACTING SECRETARY

In connection with the administration of the Freer Gallery and bequest, the following points will require authoritative decision.

1. Does Paragraph 4 of the deed of gift of May 5, 1906, require the Smithsonian, without use of any Freer funds whatever, to provide upkeep, repair, watch, heat, light, cleaning of building, repair and cleaning of collections, recording, labelling and moving of specimens? If so does the said care of specimens extend to new additions thereto?

2. Does the language of paragraphs 18, 19 and 20 of the Freer will require the incomes specified as solely applicable to certain objects to be regarded: 1. As the income of the specified capital sums named; 2. As the income of the particular shares of stock named; 3. As fixed incomes of the magnitude assignable under usual trust fund conditions to the capital sums named? If interpretation (3) is defensible, should not profit and loss on stocks mentioned in paragraphs 18, 19 and 20 go to the general Freer bequest?

In view of the fluctuation of stocks and incomes it would obviously be advantageous if the third construction could be adopted.

3. Is it necessary to pay as annual compensation to the Curator of the Freer Gallery the whole income of the capital fund described in Paragraph 18 of the will in the event that the interpretation (2) should be attached to query No. 2?

4. Is it necessary to devote the whole income of the capital fund described in paragraph 19 of the will to the purposes described in lines 6 to 10 of said paragraph even though (a) the interpretation (2) of query should prevail, and the capital fund should greatly increase, and (b) though the Curator and Mr. Platt should both regard said disposition of said income to be wholly undesirable?

5. Is it proper to devote the income mentioned in paragraph 20 of the will to the payment of the Superintendent of the Freer building as is now the practice?



6. In paragraph 18, is it defensible to regard the expression "a competent curator" as a personage of plurality, so that more than one curatorial person could be employed with the income mentioned in said paragraph? It is conceivable that no single person would be found to unite all the qualities of "a competent curator." See Walcott to Hecker, Jan. 3, 1923 (page 49), and Hecker to Walcott, Jan. 10, 1923 (page 50). Also Lodge to Abbot, April 14, 1927 (page 27), Freer to Lodge, June 12, 1919 (page 43), Walcott to Lodge, Dec. 30, 1920 (page 45); also Lodge additional note page 59.

7. In the paragraph 4 of the First Codicil, lines 8 to 10, is the word civilization to be regarded as embracing all degrees of "being reclaimed from the rudeness of savage life, and advanced in arts and learning"? Is the income described applicable to the study of all attributes of the civilized state, so far as the Regents of the Smithsonian may direct, and so far as associated with the civilization of the Far East? What geographic limits are to be set to the term "Far East"? Should it include all territory between the 90th and 180th meridians of East longitude, and between latitudes  $+90^{\circ}$  and  $-90^{\circ}$ , or should it be regarded as restricted to the limits of China and Japan, or nearly so? May phenomena now existing in other localities, but traceable to the civilization of the Far East, be studied with said income?

In regard to these queries (7) see the statement of Mr. Lodge to Dr. Abbot dated April 14, 1927 (pages 33 to 37); also the statement of Miss Rhoades to Dr. Walcott, March 20, 1923 (page 24); also the inquiry of Abbot to Walcott, Nov. 17, 1926 (page 22); Lodge to Walcott, Feb. 12, 1924 (page 54).

8. In paragraph 4 of the said Codicil, lines 10 to 37, does the language of line 12 (and following) beginning "and to that end" indicate the *sole* methods to be employed "for the promotion of high ideals of beauty," or merely suggest certain methods, or even certain preferred methods, but not to the exclusion of other methods deemed by the Regents of the Smithsonian as conducive to that end? May purchases described in lines 12 to 15 be made after the time when by decease or otherwise the approval of any survivors of the four "friends" named shall be no longer available?

See in these connections statements of Lodge to Abbot, April 14, 1927 (pages 35 to 36); and Rhoades to Walcott, March 20, 1923 (pages 24, 25); and Abbot to Walcott, Nov. 17, 1926 (page 23).

9. In view of the very positive language of paragraph 5 of the deed of gift of May 5, 1906, and the expressions of paragraph 27 of the will, lines 19 to 22, and paragraph 4 of the Codicil, lines 11 to 21, is

it not to be regarded that the testator contemplated that few (and those only of the choicest) additions would ever be made to the Freer Gallery collections, so that in the event of the making of large collections by excavation or purchase, the vast majority of whatever specimens might be purchased under the operation of paragraph 4 of the Codicil must be deposited either with the National Museum, the National Gallery of Art, or other depositories selected by the Regents of the Smithsonian?

10. Is it not to be assumed that in conformity with general principles of administration the Regents of the Smithsonian Institution through their Secretary retain the powers of initiative and veto over the actions of the Curator of the Freer Gallery subject only to legal restraints operating from the terms of the deed of gift and the will? (See Lodge to Walcott, Dec. 20, 1920, as quoted in Lodge to Abbot, Apr. 14, 1927; also Walcott to Lodge, Dec. 30, 1920). Is it not also to be assumed, from the same sanction, that the Regents may divert to the care of the Freer trust funds and expend in such manner as they direct, a usual percentage not exceeding 5 per cent of the income of said fund?

11. Should the paintings of American artists be exhibited in the galleries designated for them on the plans drawn by the architect under Mr. Freer's directions, as ordered by the late Secretary Walcott?

See Walcott to Platt, January 29, 1924 (page 51);

Platt to Walcott, January 31, 1924 (page 51);

Walcott to Lodge, February 8, 1924; October 9, 1925 (page 52);

Lodge to Walcott, February 12, 1924 (page 53);

Freer to President, December 15, 1905 (page 1, section second).







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